LIBRARY
SUPREME COURT, U. S.

APPENDIX VOL. II

Office-Supreme Ct
FILE
FEB 21 19
JOHN F. DAVIS, C

In the

SUPREME COURT OF THE UNITED STATES

October Term, 1967

No. 325

JAMES A. WATTS AND WALTER B. BLUE, PETITIONERS,

vs.

SEWARD SCHOOL BOARD AND STATE BOARD OF EDUCATION, APPEAL HEARING COMMITTEE, RESPONDENTS.

ON WRIT OF CERTIORARI TO
THE SUPREME COURT OF ALASKA

PETITION FOR CERTIORARI FILED JULY 3, 1967
CERTIORARI GRANTED OCTOBER 9, 1967

In the

SUPREME COURT OF THE UNITED STATES

October Term, 1967

No. 325

JAMES A. WATTS AND WALTER B. BLUE, PETITIONERS,

vs.

SEWARD SCHOOL BOARD AND STATE BOARD OF EDUCATION, APPEAL HEARING COMMITTEE, RESPONDENTS.

ON WRIT OF CERTIORARI TO
THE SUPREME COURT OF ALASKA

INDEX

Petition for Writ of Review with attached Exhibits A and B 1

M. O. Rendering Oral Decision, dated December 8, 1961 14

Mandate, dated December 28, 1961 15

Opinion by State Board of Education Appeal Committee dated July 31, 1962 20

Second Petition for Writ of Review dated August 14, 1962 26

Order Denying Second Petition for Writ of Review, dated September 13, 1963 32

Notice of Appeal dated September 24, 1963 33

Judgment, Supreme Court of Alaska, dated September 21, 1964 33

Opinion, Supreme Court of Alaska, dated September 21, 1964 34

Washington, D. C. · THIEL PRESS · 202 · 393-0625

Mandate, Supreme Court of Alaska, dated October 2, 1964 40

Opinion, Supreme Court of the United States, dated May 6, 1965 42

Order, Supreme Court of the United States Granting Petition for Writ of Certiorari and Remanding Case to Supreme Court of Alaska, dated May 28, 1965 44

Judgment, Supreme Court of Alaska, dated December 7, 1966 ... 46

Opinion, Supreme Court of Alaska, dated December 7, 1966 47

Appellants' Petition for Rehearing dated December 24, 1966 119

Opinion on Petition for Rehearing, dated February 2, 1967 122

Mandate, dated February 10, 1967 126

Transcript of Proceedings Before the Seward School Board, November, 1960:

Benjamin F. Frampton 145

Monty N. Richardson 159

Walter B. Blue 167, 435, 540

James A. Watts 200, 489

George Fabricius 269, 508

Beth Ann Muller 353

Thomas R. Howell 360

Murl Trevethan 369

William A. Swick 377

K. G. Naegel 547

Ella B. Vaughn 548

Transcript of Proceedings Before the Seward School Board, April 6, 1960:

Benjamin F. Frampton 552

Margaret M. Frampton 553

George Fabricius 559, 569

James A. Watts 559

Walter B. Blue 566

MR. BURR: Did Mr. Smith ever challenge the Board in their determination of declaring that excess position?

[128] MR. FABRICIOUS: Never.

MR. BURR: Did he ever, or did Mr. Blue or Mr. Watts ever present in the form of a grievance to 18 May, 1959, anyone of the three situations involving Condor, Swick or Smith, to you as Superintendent?

MR. FABRICIOUS: No.

MR. BURR: Did anybody also on their behalf present in the form of a grievance?

MR. FABRICIOUS: No.

MR. BURR: Number 10, paragraph 10 in item 7, Exhibit 7, is an allegation of the firing of Mrs. Davis on the basis of personal dislike, rather than for dereliction of duties or inefficiency. Will you tell me whether or not Mrs. Davis was released from the school system?

MR. FABRICIOUS: She was.

MR. BURR: Was she fired?

MR. FABRICIOUS: You could call it that.

MR. BURR: Was she a teacher?

MR. FABRICIOUS: No.

MR. BURR: What was her position?

MR. FABRICIOUS: She was a personal secretary.

MR. BURR: And whose secretary was she?

MR. FABRICIOUS: Mine.

MR. BURR: Was she there when you came into the system?

MR. FABRICIOUS: She was.

MR. BURR: Is there any obligation to your knowledge, or any regulation that required the keeping of the secretary that you had?

MR. FABRICIOUS: When I came on the position in Seward, the School Board told me that it was my privilege to select my own secretary. I stated then that since there was one there and I knew no one in Seward, I would try it out.

MR. BURR: Did you try it out?

MR. FABRICIOUS: I did.

MR. BURR: How long?

MR. FABRICIOUS: Oh, I don't know, about 8 months.

[129] MR. BURR: Was Mrs. Davis' services satisfactory?

MR. FABRICIOUS: In my consideration, no.

MR. BURR: Did you so advise her.

MR. FABRICIOUS: I did.

MR. BURR: And what did you do, if anything?

MR. FABRICIOUS: We notified her that at the end of the year she would receive a month's salary and that would be termination.

MR. BURR: Was your reason for releasing Mrs. Davis based on personal dislike, distinguished from dereliction reliction or an incapacity to perform her duties?

MR. FABRICIOUS: I feel as a personal secretary you have the right, for personal reasons or any other reasons, for letting a personal secretary go. A person working closely as a personal secretary, there are certain relationships there that have to be preserved.

MR. BURR: And for reasons which are personal to you perhaps, you saw fit to release her and that in your opinion that was within the scope of your responsibility?

MR. FABRICIOUS: Definitely.

MR. BURR: They further state in paragraph 10, the releasing of this secretary resulted in public discussion, reflecting adversely on the school and placing Mrs. Davis in a position of consulting an attorney relative to her salary. Now, is that true?

MR. FABRICIOUS: To the best of my knowledge, if there's any discussion of it, she made it, and as far as the lawyer, consulting a lawyer, no lawyer ever contacted me or the Board.

MR. BURR: Was any portion of paragraph 10 ever presented to you in a form of an official grievance by Mr. Blue, Mr. Watts or anybody under their auspices prior to the 18th of May, 1959?

MR. FABRICIOUS: No. Mrs. Davis herself came before the Board, but had no connection with any of the teachers.

MR. BURR: All right, You have heard the testimony of Mr. Brown, yesterday afternoon, Mr. Fabricious, wherein he stated that he had a conversation with you in the Fall of 1958?

MR. FABRICIOUS: Yes.

MR. BURR: Will you tell me your recollection of that conversation?

MR. FABRICIOUS: Well, to a certain extent, the conversation was much as Mr. Brown has stated. An implication there slightly different. We were discussing teachers who were getting into these problems and how it would be reflected upon them, and I believe I pointed out an incident [130] that happened in Wrangell a year or so before in which 10 teachers I believe, demanded of the Board that they fire the Superintendent or they quit, and the Board called their hand on it and I happen to know a list of those teachers were on the blotters of Superintendents throughout Alaska, and I felt that teachers that get into that sort of thing, it could happen not only there but other places, because when teachers leave a system, they want to know why they left, and while a teacher might not be satisfactory in one community they might work out very well in another, but they don't want people who are going to stir up trouble in any system.

MR. BURR: Did you discuss this fully with Mr. Brown?

MR. FABRICIOUS: On that point, that's about the point of the discussion.

MR. BURR: Do you recall his making any discussion of whether or not he should buy a house in Seward?

MR. FABRICIOUS: Yes, he did ask me about that.

MR. BURR: What, if anything, did you say?

MR. FABRICIOUS: I recommended that he not buy one.

MR. BURR: What was your reason for that?

MR. FABRICIOUS: Well, first of all, I felt that new teachers in the community, they were taking a risk, and buying a home, I didn't feel it was a good investment in real estate in Seward at that time.

MR. BURR: Did you have any personal dislike or animosity towards Mr. Brown?

MR. FABRICIOUS: Definitely not.

MR. BURR: How long had you known him prior to the Fall of 58?

MR. FABRICIOUS: I hadn't know him prior to that.

MR. BURR: Will you tell as whether or not there was any probationary period for new teachers in the Seward School System?

MR. FABRICIOUS: Not according to law but you always feel that a new teacher has many problems to go over and I did talk to Mr. Brown about his problems. In fact, contrary to his testimony, I talked to Mr. Brown, I think, at least three different times during the year and discussed his problem with him and even prior to the time of reelection of teachers, I told Mr. Brown it was doubtful that I could recommend his reappointment to the system for several reasons and I pointed out these reasons to him. One of them was the complete lack of control of the youngsters in his class. There was a continual stream of youngsters coming from his classes to me for disciplinary action and as far as his being required to do maintenance work. That's completely erroneous. He was asked to fix up the shop, that was all. He never saw fit to even spend a little extra time fixing up the shop for his own classwork. But he was never asked to do maintenance work.

[131] MR. BURR: Was your decision to, was the Board's decision, in your opinion, for non-retention of Mr. Brown, based upon anything other than non-satisfactory performance?

MR. FABRICIOUS: No.

MR. BURR: Has Mr. Brown to your knowledge ever made any statement subsequent to this notice of non-retention relative to his teaching?

MR. FABRICIOUS: Well, he has made a remark that actually I did him a good turn, because he didn't like teaching anyway.

MR. BURR: Did Mr. Brown to your knowledge, within your knowledge, ever make any attempt to appeal the notice of non-retention?

MR. FABRICIOUS: No.

MR. BURR: Did he ever challenge any of the basis given for his notice of non-retention?

MR. FABRICIOUS: No.

MR. BURR: I'm going to hand you Board's Exhibit 16 and ask you if you can identify that document.

MR. FABRICIOUS: Yes, this is a letter following a Board discussion in which we discussed something of the problems, the talk, and the inner strife that was going on in the Grade School asking me to read to the teachers in Seward and to state some of my points.

MR. BURR: Do you know whether or not that was read in the presence of Mr. Watts or Mr. Blue?

MR. FABRICIOUS: I know it was read in the presence of Mr. Watts - I'm not so sure about Mr. Blue.

(Private discussion between counsel.)

MR. BURR: Thank you.

MR. WALTON: May I inquire, sir. What is your educational background?

MR. FABRICIOUS: I had four years at the University of Iowa, a year at the University of Washington and a year at Arizona State.

MR. WALTON: And the degrees that you hold are?

MR. FABRICIOUS: A BA and an MA.

MR. WALTON: Do I correctly understand that all of your teaching experience has been in Kenai, Wrangell or Seward?

MR. FABRICIOUS: That's right. No, I had teaching experience in Washington and Oregon as well.

MR. WALTON: And otherwise, all in the three towns of Alaska not Egeek that you mentioned.

[132] MR. FABRICIOUS: That's right.

MR. WALTON: Tell me, in regard to this conversation you had with Mr. Brown which you just referred to, I believe you explained to him, did you, that there had been some trouble down in Wrangell?

MR. FABRICIOUS: I don't recall the exact words. After all, I didn't expect to have to bring this up a year and a half afterwards, so I wasn't carrying a tape recorder taking notes.

MR. WALTON: How did you happen to have such an accurate recounting of your conversation with Jack Condor, if you didn't have a tape recorder?

MR. FABRICIOUS: What do you mean recording of conversation?

MR. WALTON: Well I presume that the conversation was—

MR. FABRICIOUS: It was a transcript taken at the time of his resignation.

MR. WALTON: Yes. The tape recorder was going, was it?

MR. FABRICIOUS: No, I had Mrs. House, the secretary and took that transcript of it just as it took place.

MR. WALTON: Did you ask her to?

MR. FABRICIOUS: Certainly I did.

MR. WALTON: At the beginning of the conversation?

MR. FABRICIOUS: I reached the point where I felt that things like this had to be taken down and I had Mrs. House take a transcript of what was said, yes.

MR. WALTON: And Jack Condor knew that at the time?

MR. FABRICIOUS: Yes, he knew it.

MR. WALTON: You turned to her and you said, please take down the following conversation, then you had the conversation.

MR. FABRICIOUS: We had what was in the transcript, yes. I don't call it a conversation.

MR. WALTON: May I please have that transcript of the conversation -- I think it's what - 16? 18. You stated that this was transcribed by Mrs. House. Is Mrs. House present?

MR. FABRICIOUS: Yes, Mrs. House is present.

MR. WALTON: I note here with interest this following portion of the conversation "Mr. Fabricious - I suggest immediately you present your resignation and I'm sure the

Board will accept. Mr. Condor: Thank you, Mrs. House, do you have paper? Mr. Fabricious: You're not for the Seward Public Schools, you're completely - then I have a notation here - balance of Mr. Fabricious' conversation unable to [133] record due to paper of Mr. Condor." What was it that you were saying when you said Mr. Condor, you are completely?

MR. FABRICIOUS: I don't recall - it was probably something to the effect, this is just surmising on my part you understand, something to the effect that he was just another teacher in our school and it wasn't up to him to determine our regulations - I don't recall.

MR. WALTON: Now, with respect to the conversaton with Mr. Brown. You advised him, didn't you, that recently in Wrangell before you came here, that 10 teachers-

MR. FABRICIOUS: Not while I was in Wrangell, no.

MR. WALTON: Oh.

MR. FABRICIOUS: That happened after I left Wrangell.

MR. WALTON: The superintendent in question was who?

MR. FABRICIOUS: Oh, I don't recall his name, again - Regal was his name?

MR. WALTON: How did you learn that the names of those 10 recalcitrant teachers came to the board of all the Superintendents in Alaska?

MR. FABRICIOUS: I didn't say I know I did - The Commissioner of Education told me he said - every superintendent in south Alaska got the names. It came up in a discussion with him, that was his statement.

MR. WALTON: Have you ever communicated with other superintendent in Alaska about Appellants, Blue, Watts, or Mr. Swick?

MR. FABRICIOUS: The only one that I've ever communicated with was Saldovia in regards to Mr. Swick.

MR. WALTON: And that inquiry was made I presume in the early part of May, 1959?

MR. FABRICIOUS: It could have been - I don't remember exactly.

MR. WALTON: I believe you received a reply on May 12th, didn't you?

MR. FABRICIOUS: I don't know if I ever received a reply from them.

MR. WALTON: Oh, isn't there one in evidence?

MR. FABRICIOUS: Not to my knowledge. That's from Skagway.

MR. WALTON: Oh. Did you ever write to the School Board in Skagway?

MR. FABRICIOUS: I wrote to several individuals in Skagway - yes.

MR. WALTON: Oh I see, you made inquiries about Mr. Swick, but to only one School Board?

MR. FABRICIOUS: Not at the school where he was employed. He had only been in one school before.

[134] MR. WALTON: I see, and how did you happen to make inquiry at Skagway?

MR. FABRICIOUS: Well, where else would I make it?

MR. WALTON: Why would you make it?

MR. FABRICIOUS: Because I was quite certain Mr. Swick had led the turmoil we had here.

MR. WALTON: By turmoil by that you are referring to the efforts of the SDTA to reinstate certain teachers.

MR. FABRICIOUS: I wouldn't say the SDTA, I felt he had personal reasons for trying to get into

MR. WALTON: Mr. Swick had personal reasons?

MR. FABRICIOUS: Yes, possibly.

MR. WALTON: What sort of personal reasons?

MR. FABRICIOUS: Well, to put it plainly, I felt that he was under the impression that if he could give me the skids then he could be Superintendent.

MR. WALTON: You thought Mr. Swick was gunning for your job, is that it?

MR. FABRICIOUS: Well, not necessarily gunning for it because he didn't have a chance to get it.

MR. WALTON: What were the personal reasons you attributed to him?

MR. FABRICIOUS: State your question again, please.

MR. WALTON: Yes, what were the personal reasons that you attributed to Mr. Swick?

MR. FABRICIOUS: I think I've answered that.

MR. WALTON: Mainly, he was gunning for your job.

MR. FABRICIOUS: He, that he was in this difficulty we were having around here.

MR. WALTON: And by difficulty you are referring to what?

MR. FABRICIOUS: Well, in the turmoil that you're speaking of here.

MR. WALTON: Which turmoil, Mr.—

MR. FABRICIOUS: I said turmoil you're speaking of.

MR. WALTON: You mean the turmoils in the open letter Exhibit 7?

MR. FABRICIOUS: Well, don't they speak of it here?

MR. WALTON: Is that what you're talking about?

MR. FABRICIOUS: To some extent yes.

MR. WALTON: Anything else?

[135] MR. FABRICIOUS: Well, it would be a little hard to dig for it.

MR. WALTON: Let's try.

MR. FABRICIOUS: Alright, let's put it that way, if that satisfies you - that satisfies me.

MR. WALTON: I want the truth - I don't want something—

MR. FABRICIOUS: I'm not giving you anything but the truth.

MR. WALTON: Pardon me?

MR. FABRICIOUS: I'm not speaking anything but the truth.

MR. WALTON: So I presume that that was the only turmoil Mr. Swick was involved in; correct?

MR. FABRICIOUS: It might be.

MR. WALTON: Well, was it to your knowledge?

MR. FABRICIOUS: To my knowledge, yes.

MR. WALTON: And, because you felt that he was involved, you felt you should inquire of persons in Skagway concerning Mr. Swick, correct?

MR. FABRICIOUS: Well, not only that, I also had conversation with my Grade School Principal who had dealt with Mr. Swick and he felt that a little background check was in order.

MR. WALTON: Who did you inquire of concerning Mr. Swick in Skagway?

MR. FABRICIOUS: Several ex-school board members who were in a position to know.

MR. WALTON: And you received replies, did you?

MR. FABRICIOUS: Yes.

MR. WALTON: And, do you have them?

MR. FABRICIOUS: I think I have one here, yes.

MR. WALTON: You have one that's a little derogatory, don't you?

MR. FABRICIOUS: I had another that was also derogatory.

MR. WALTON: Where is that?

MR. FABRICIOUS: I don't know where it is now?

MR. WALTON: Did you get a third?

MR. FABRICIOUS: I don't recall, whether I did or not.

MR. WALTON: I presume that if you made inquiries about Mr. Swick you must have made inquiries about teachers who were involved in this turmoil?

[136] MR. FABRICIOUS: No, I can't say I did.

MR. WALTON: Well, did you?

MR. FABRICIOUS: No.

MR. WALTON: Didn't you inquire about Mr. Blue anywhere, or Mr. Watts?

MR. FABRICIOUS: There was no use inquiring about Mr. Blue he had been here all the while.

MR. WALTON: When was it that Mr. Swick's 1959-60 contract was tendered to him?

MR. FABRICIOUS: Oh, it was sometime - the teacher's re-election took place in February right in mid-February, I would say, and I think the contracts came out sometime early in March. They had notification if they were re-elected.

MR. WALTON: And then, I think up in the upper left hand corner of the first page of this contract there was a

little statement that it should be returned by a certain date.

MR. FABRICIOUS: If it was to be validated, yes.

MR. WALTON: On what date was it?

MR. FABRICIOUS: Oh, if I remember correctly the first date was April 10th.

MR. WALTON: And was that the case in all the other contracts which were tendered to all other teachers?

MR. FABRICIOUS: They were all exactly the same.

MR. WALTON: I see. And was that April 10th date extended?

MR. FABRICIOUS: It was.

MR. WALTON: To when?

MR. FABRICIOUS: April 17th, I believe it was.

MR. WALTON: And you say, you received 27 contracts back?

MR. FABRICIOUS: I didn't say the exact number, but I received all the other contracts back.

MR. WALTON: Yes, all before April 17th?

MR. FABRICIOUS: All contracts for teaching agreements.

MR. WALTON: All, before April 17th?

MR. FABRICIOUS: As far as I can recall, yes.

MR. WALTON: Is it possible that some of the others came back after April 17th?

[137] MR. FABRICIOUS: Well, there's always a possibility you know.

MR. WALTON: And, because Mr. Swick's contract did not come back on April 17th, on May 12th, his position was declared vacant, correct?

MR. FABRICIOUS: Right.

MR. WALTON: Why wasn't his position declared vacant on April 18th?

MR. FABRICIOUS: Well, we simply didn't follow through right away, it was a matter of Board action, and Boards don't meet every day.

MR. WALTON: Well, when did they meet after April 18th?

MR. FABRICIOUS: I couldn't say offhand.

MR. WALTON: You were with the Board on all their meetings?

MR. FABRICIOUS: Yes, but I don't remember every date that we meet, I'm not prepared to do that.

MR. WALTON: You met on April 29th, didn't you?

MR. FABRICIOUS: I don't recall.

MR. WALTON: Well, let me refresh your memory. That there was at least a meeting of the School Board on May 8th, wasn't there?

MR. FABRICIOUS: I couldn't say for sure.

MR. WALTON: Weren't you there? That was the meeting remember when the School Board had to retract its earlier position and issue contracts to the four non-retained teachers?

MR. FABRICIOUS: If that's the date then there was a meeting.

MR. WALTON: Yes. Why was it that - the contract - well, on that date the fact that Mr. Swick's contract had not been returned came up before the Board?

MR. FABRICIOUS: I don't recall.

MR. WALTON: What did you think could be gained by inquiring of persons in Skagway about Mr. Swick? Why did you do that?

MR. FABRICIOUS: I think it's valuable at any time that administrators should know the background of their teachers.

MR. WALTON: Mr. Swick had been working for you up to then almost a full school year, had he not?

MR. FABRICIOUS: That's right.

MR. WALTON: And you suddenly became interested in his background.

[138] MR. FABRICIOUS: That's right.

MR. WALTON: Well, what bearing did his background, at that late date have upon your relationship with him?

MR. FABRICIOUS: Well, as I remarked before I had discussed Mr. Swick with our Elementary Principal and he had given me a little insight into the earlier employment of Mr. Swick and dissatisfaction and I thought it advis-

able to know a little of his background. There was nothing in the record at all here of his background which is rather unusual when a teacher is employed here.

MR. WALTON: And the person you say with whom you spoke was who - Mr. Frampton?

MR. FABRICIOUS: I talked with Mr. Frampton.

MR. WALTON: Mr. Frampton know all about Mr. Swick's background, did he?

MR. FABRICIOUS: No, he didn't.

MR. WALTON: But he was able to tell you about it?

MR. FABRICIOUS: No, he wasn't.

MR. WALTON: What did you talk to him about Mr. Swick, then?

MR. FABRICIOUS: Briefly, about his employment - conditions of his employment - when he was first employed - as little as he knew about it.

MR. WALTON: I believe you've recently made some remarks over the air in the course of this recent recall election in which you referred to the troublesome trio, have you not?

MR. FABRICIOUS: Yes.

MR. WALTON: And who were you referring to?

MR. FABRICIOUS: There they sit.

MR. WALTON: And what are their names?

MR. FABRICIOUS: Watts, Blue and Swick.

MR. WALTON: You feel that they have been causing quite a bit of trouble, do you?

MR. FABRICIOUS: I wouldn't have remarked so otherwise.

MR. WALTON: Do you think this has been aimed against you?

MR. FABRICIOUS: A good deal of it yes.

MR. WALTON: Why - I know you've stated this in respect to Swick - apparently you feel the same thing is true of Blue and Watts. Is that correct?

MR. FABRICIOUS: That's right.

[139] MR. WALTON: Why is it - do you think that

they are - do you think that are motivated by personal animosity?

MR. FABRICIOUS: Oh, I don't know - you could class it as personal animosity - it could be - it's hard to understand why people get involved in some of these things that they get into and they can't back out again.

MR. WALTON: Do you feel it was a mistake for them to tangle with you, do you?

MR. FABRICIOUS: It might have been.

MR. WALTON: Well, what do you think?

MR. FABRICIOUS: I think we'll find out when we get through with this.

MR. WALTON: Why is it - do you think that these people have been stirred, as you suspect, by personal animosity?

MR. FABRICIOUS: I didn't say personal animosity - I didn't call it just personal animosity.

MR. WALTON: How would you describe it?

MR. FABRICIOUS: I felt that they had certain personal aims in mind.

MR. WALTON: And what would their personal aims be?

MR. FABRICIOUS: I pointed out what might be Mr. Swick's - I felt that they resented my position here in the school and they resented an administration that set up rules and regulations and possibly required more of teachers than had been required previously, as evidenced by their resistance of going out to school.

MR. WALTON: This January, 1959 faculty meeting that you had in the Grade School, do you recall that event?

MR. FABRICIOUS: Yes.

MR. WALTON: That was the event in which you carried with you a letter bearing Mr. Howell's signature.

MR. WALTON: Mr. Fabricious answered yes.

MR. WALTON: Do you know who prepared that letter?

MR. FABRICIOUS: No, I don't.

MR. WALTON: Mr. Howell hand delivered it to you, did he?

MR. FABRICIOUS: I don't recall. It could have been given to me at a Board meeting, I don't recall.

MR. WALTON: You had no part in preparing the letter?

MR. FABRICIOUS: Definitely not.

MR. WALTON: I believe it was at that meeting sir, that you stated, according to Mr. Watts testimony, you in the Teacher's Association have started a scandal campaign, to try to get rid of me, you are trying to get [140] the Board to buy back my contract, - I have a three year contract and I will be here long after most of you have gone. In the spring when contracts are let; I will remember who my enemies are. Do you remember saying like that?

MR. FABRICIOUS: You are taking Mr. Watts word for that. I don't agree with Mr. Watts' statement whatever.

MR. WALTON: What did you say on that occasion? Something similar to this?

MR. FABRICIOUS: I don't know what you mean by similiar - I told the teachers that I hated to come before them with anything like this because I felt that it was something that should never need to come up - that you shouldn't need to more or less reprimand teachers for their actions - personal actions - and I also pointed out to the teachers that I was certain that there was many of them there that didn't apply to - and if it didn't apply, there need be no offense. I said I had a three year contract and I don't recall if I stated that they were trying to buy it up - but that remark had been made - in fact that remark had been made in the presence, I believe of Mrs. House over there, I resented that, naturally, and I don't recall just what all was said - but as far as saying that I would remember my enemies and all that baloney - that's just what it is.

MR. WALTON: Well, who was it that started the scandal campaign to try to get rid of you - or did you so state?

MR. FABRICIOUS: I didn't say.

MR. WALTON: You stated, did you not, something about they are trying to get my contract back?

MR. FABRICIOUS: They - I don't know if I said they - I might have remarked that there was a rumor to that effect but I don't think I ever pointed a finger to anyone.

MR. WALTON: And you called a special faculty meeting for this purpose, didn't you?

MR. FABRICIOUS: At the request of the Seward School Board that I read this letter to them which is more of a statement of the code of ethics of the MNA.

MR. WALTON: And as far as you're concerned, it was just rumors?

MR. FABRICIOUS: What was rumors?

MR. WALTON: Oh, the matters to which you referred - that someone was trying to get your contract back.

MR. FABRICIOUS: Oh, as far as I was concerned no one had come to me and said we are going to get your contract back - if that's what you mean.

MR. WALTON: Whenever you hear a rumor such as that as Superintendent, do you automatically call a Faculty Meeting to reprimand teachers?

MR. FABRICIOUS: Of course not. That would be ridiculous.

[141] MR. WALTON: Why?

MR. FABRICIOUS: To call a Faculty Meeting every time I hear a rumor

MR. WALTON: Does it happen so frequently?

MR. FABRICIOUS: *No - don't put the words in my* mouth, please.

MR. WALTON: I believe it was on that occasion Mr. Watts stated that you said it would be unethical and unprofessional for two or more teachers to talk together in the hall.

MR. FABRICIOUS: That is a definite falsehood.

MR. WALTON: I see. You never said anything like that?

MR. FABRICIOUS: I don't recall as I ever said anything like - to say one or two teachers couldn't talk in the hall - that would be ridiculous.

MR. WALTON: Do you remember a Mrs. Barber - Marie Barber?

MR. FABRICIOUS: That's right.

MR. WALTON: She was a member of the AFT, wasn't she?

MR. FABRICIOUS: As far as I know she was.

MR. WALTON: Did you have trouble with her?

MR. FABRICIOUS: I had no trouble with Miss Barber to my recollection.

MR. WALTON: May I mark Appellants Exhibit - what will it be - Number 6?

MR. FABRICIOUS: May I make a remark regarding Miss Barber?

MR. WALTON: Sure.

MR. FABRICIOUS: I don't know what your letter says - but I'm going to tell you what Miss Barber said to me the last day she came and talked to me before leaving school and then you can judge her personality by that. Her remark was how she'd enjoyed working with me here in Seward and she was sorry to leave. Now if her letter is different you can judge the character of Miss Barber from that.

MR. WALTON: Thank you. Did you ever on any occasion, Mr. Fabricious, state that in your opinion school teachers shouldn't be property owners?

MR. FABRICIOUS: No, not to my knowledge.

MR. WALTON: Is that your opinion?

MR. FABRICIOUS: No, definitely not

MR. WALTON: You believe it's nice for school teachers to have homes.

MR. FABRICIOUS: I think there should be a period of time in which they definitely the community and I think they should think of it whether [142] it's property they can buy and resell and come out on top.

MR. WALTON: How long did Mrs. Barber work under your supervision?

MR. FABRICIOUS: One year.

MR. WALTON: Are you familiar with her handwriting?

MR. FABRICIOUS: No, I'm not.

MR. WALTON: Will you examine that - Exhibit - Appellants Exhibit 6?

MR. FABRICIOUS: I agree with the last statement - I would like to qualify it. I would like to read that. I don't mind reading it at all, I would like to qualify part of it.

MR. WALTON: I offer this in evidence. Mr. Fabricious I believe there was also some testimony to the fact that you on occasion, declared that you had to get of 80% of the teachers in Wrangell.

MR. FABRICIOUS: That's a lie.

MR. WALTON: Who so lied?

MR. FABRICIOUS: I don't know - whoever gave you that statement, did lie.

MR. WALTON: I believe there has been testimony here today that, I believe Mr. Watts has testified in effect that on one occasion you declared openly that you had gotten rid of one-third of the teachers this year and that you would get rid of the remainder next year?

MR. FABRICIOUS: I declare it a falsehood.

MR. WALTON: Why would Mr. Watts say a thing like that if it weren't true?

MR. FABRICIOUS: Because I believe he said many things that weren't true.

MR. WALTON: What else?

MR. FABRICIOUS: I don't think we need to go into that - there's a good deal of his testimony.

MR. WALTON: Why not? What were some of the other things he said that weren't true?

MR. FABRICIOUS: Oh, I don't recall all of the testimony. One that I will say. I'll point out one - his statement here that I made, supposedly made, at a Board meeting, that you union members should all have your throats cut - that's a definite falsehood.

MR. WALTON: Did you say anything similar to that?

MR. FABRICIOUS: Nothing, to my knowledge.

MR. WALTON: You are sympathetic to unions, are you, among teachers?

[143] MR. FABRICIOUS: No, I'm not.

MR. WALTON: Why not?

MR. FABRICIOUS: Because I feel that we have other professional organizations that serve the purpose.

MR. WALTON: What's wrong with Teacher's Unions?

MR. FABRICIOUS: I didn't say what's wrong with them - I said I prefer the others.

MR. WALTON: Why?

MR. FABRICIOUS: Because I feel it satisfies the professional requirement - our own organization and I feel that they will do more for us professionally than the AF of T will.

MR. WALTON: The SDTA wasn't able to secure reinstatement for the four teachers who were illegally non-retained, was it?

MR. FABRICIOUS: I don't think the AF of T really had anything to do with getting those contracts back for the teachers. I had had discussions with the Board and we had reached the point where we thought that we were going to have to give them back and it wasn't the AF of T that actually accomplished it at all.

MR. WALTON: When did you have your discussions with the Board and decide to take these teachers back?

MR. FABRICIOUS: Oh, I don't recall - in the spring sometime.

MR. WALTON: Prior to the May 8th meeting, was it?

MR. FABRICIOUS: I think we were pretty well in accord by that time, yes.

MR. WALTON: So that the three or four hour discussions at the May 8th meeting with an attorney was really unnecessary, was it?

MR. FABRICIOUS: I would say so, yes. They would have secured their contracts.

MR. WALTON: Well, why was it that it took three or four hours of arguing with an attorney before it was accomplished?

MR. FABRICIOUS: Oh, I can't give you the answer to that.

MR. WALTON: It is inexpicable isn't it?

MR. FABRICIOUS: It is, yes.

MR. WALTON: Mr. Fabricious, with respect to the Board's Exhibit 12, what purports to be School Regulations, may I inquire sir, did you have a hand in drafting any portion of them?

MR. FABRICIOUS: I had a hand in drafting probably all of it.

MR. WALTON: Did you in fact draft all of it yourself?

[144] MR. FABRICIOUS: They were drafted from various manuals from public schools in Alaska and they were individually considered by all members of the Board and approved by paragraph and topic and all.

MR. WALTON: Did you submit them to the Board for approval?

MR. FABRICIOUS: I certainly did.

MR. WALTON: Do you remember the dates on which they were variously approved?

MR. FABRICIOUS: No.

MR. WALTON: And, who prepared them for approval, yourself?

MR. FABRICIOUS: Yes - no the secretary did.

MR. WALTON: Who was that?

MR. FABRICIOUS: I believe Mrs. Davis was secretary at the time.

MR. WALTON: You allowed Mrs. Davis, a clerical secretary and employee to make up the regulations for the Seward School Board?

MR. FABRICIOUS: To make the copy - just the copying of them.

MR. WALTON: Well, who prepared them?

MR. FABRICIOUS: I did.

MR. WALTON: You wrote them yourself.

MR. FABRICIOUS: The originals were copies prepared by me, they were typed up and I then went over them and in turn the Board went over all of them.

MR. WALTON: They went over them on different occasions didn't they?

MR. FABRICIOUS: I don't remember how many occasions because there had been many times we went through different parts.

MR. WALTON: As a whole the manuscript was not ever on one occasion submitted to the Board for approval, was it?

MR. FABRICIOUS: The entire manuscript? There was a lot of the first part of it that was, yes.

MR. WALTON: But I say the entire body?

MR. FABRICIOUS: No, if you will look at it you will see various dates appended to it that's Board approval.

MR. WALTON: I see. I'm looking now at page 15, section 2, it says thereof, "approved by Seward School Board November 12, 1958" What does that signify?

MR. FABRICIOUS: Well, it signifies that that part of it was approved on that date as far as I can understand it.

[145] MR. WALTON: What was the purpose of such an inscription on the end of a section.

MR. FABRICIOUS: Well, it was just a normal procedure.

MR. WALTON: Who would put that information on the last page of the section in question?

MR. FABRICIOUS: I suppose whoever prepared the manuscript.

MR. WALTON: Who did prepare the manuscript?

MR. FABRICIOUS: I'm not so sure if it was prepared by Mrs. Davis or if it was prepared later.

MR. WALTON: So, actually, if it was prepared by Mrs. Davis she would be the one to know whether or not it was approved by the Seward School Board?

MR. FABRICIOUS: No, she would not.

MR. WALTON: Well, wouldn't she be the one?

MR. FABRICIOUS: Because she would simply be given instructions as to what to put on there. If the Board inadvertently didn't mark on there, or I didn't mark on there the date approved, it wouldn't be in the manuscript.

MR. WALTON: Do you know as a matter of fact, sir, and I ask you to think very carefully, do you recall any occasion on which Section 1, sub-paragraph Capital L, was ever adopted by the School Board?

MR. FABRICIOUS: I'm very certain that it was.

MR. WALTON: I asked you if you specifically remembered any occasion on which it was?

MR. FABRICIOUS: Specific dates?

MR. WALTON: Any specific occasion.

MR. FABRICIOUS: It was approved at a regular Board meeting, yes.

MR: WALTON: Do you remember that Board meeting?

MR. FABRICIOUS: Not specifically, no.

MR. WALTON: So, perhaps it wasn't?

MR. FABRICIOUS: I wouldn't say that, no.

MR. WALTON: It's possible, isn't it?

MR. FABRICIOUS: Anything's possible.

MR. WALTON: Thank you. Have you ever examined the minutes of the School Board to determine whether or not that portion of the regulations were approved?

MR. FABRICIOUS: Yes.

[146] MR. WALTON: You've looked in vain, have you?

MR. FABRICIOUS: I wouldn't say in vain, no.

MR. WALTON: Have you found the answer to your search?

MR. FABRICIOUS: I found a statement in there to the fact that these were being prepared and reorganized for Board approval.

MR. WALTON: I see, but no specific reference to this manuscript?

MR. FABRICIOUS: Part of it is definitely in the minutes, part of it is not definitely recorded in the minutes.

MR. WALTON: Part of it is not definitely recorded in the minutes?

MR. FABRICIOUS: Not as far as I was able to ascertain.

MR. WALTON: I see. So that would indicate that there is no official record of any adoption of at least portions of it, wouldn't it?

MR. FABRICIOUS: You might say there was an indication, but not a fact.

MR. WALTON: Unless there's some other evidence to rebut it, that would be the reliable, sensible—

MR. FABRICIOUS: I would say that an oath on the matter of the Board members would be evidence enough, the fact that this was prepared and given to the Board and distributed to the teachers it would certainly be evidence that they had approved it.

MR. WALTON: You mean to say that by merely you delivering this to the teachers that is evidence?

MR. FABRICIOUS: No I said delivering it to the Board members, and then later to the teachers, it would certainly be evidence.

MR. WALTON: I'm sorry, you mean to say merely delivering those to the Board members is itself evidence of approval of.

MR. FABRICIOUS: I would say their oath to that would be sufficient.

MR. WALTON: Now, Mr. Fabricious, a man's oath, without being based on personal knowledge would really be worth very little, wouldn't it?

MR. FABRICIOUS: Are you going to say that four Board members would definitely falsify a statement to the fact that these had been approved?

MR. WALTON: Mr. Fabricious, perhaps you'd like to answer my question. It is simply this, if a person did not have any personal knowledge of a fact, but nevertheless stated that such was a fact, the mere fact that such a statement would be under oath, would not itself make the statement true, would it?

MR. BURR: I'll object to the question. It's argumentative.

MR. FABRICIOUS: I choose not to answer that.

[147] MR. WALTON: That's your choice. Do you specifically remember preparing sub-paragraph I of Section 1?

MR. FABRICIOUS: To say that I specifically remember each paragraph would be a.little bit ridiculous, but I do remember preparing the entire manuscript, as a manuscript; yes.

MR. WALTON: But you don't remember preparing the parts?

MR. FABRICIOUS: Well - it would be ridiculous to say that I remember every paragraph in there.

MR. WALTON: Well, let me direct your attention to sub-paragraph 7 and 9, sub-paragraph K, Section 1. There has been quite a bit of talk about these paragraphs. Do you remembering those?

MR. FABRICIOUS: I know that they have been in there ever since those books had been printed, that much I do know, because they were very pertinent.

MR. WALTON: Do you remember preparing that?

MR. FABRICIOUS: I would say yes, I do.

MR. WALTON: Now, with respect to sub-paragraph 7 - that's the one which says grievances, complaints and communications from employees shall be submitted to the Board through the Superintendent. Do you think that's a good regulation?

MR. FABRICIOUS: Yes, I do.

MR. WALTON: Why?

MR. FABRICIOUS: Because I think that the Superintendent, first of all, should know about these things, and it prevents a lot of trivia from going to the Board members to act on individually.

MR. WALTON: Do you feel that has happened in connection with the histories of Mr. Swick, Mr. Watts and Mr. Blue?

MR. FABRICIOUS: Not necessarily, no.

MR. WALTON: So they surmise that what they have presented to the Board has not been trivia?

MR. FABRICIOUS: That does not necessarily mean that anything that's not trivial could circumvent the regulations.

MR. WALTON: The matters which they presented to the Board were not trivial, were they?

MR. FABRICIOUS: I would say some of this, if they consider this seven points, here, those ten points, whatever they are, I consider much of that trivial, yes.

[148] MR. WALTON: Well, let's go down that list. What is trivial?

MR. FABRICIOUS: Now, we're getting into a matter of definition.

MR. WALTON: Is item 1 - illegal non-retention of teachers, trivial, sir?

MR. FABRICIOUS: Yes, because I didn't consider it illegal.

MR. WALTON: You felt that because you didn't con-

sider it illegal, it was trivial for someone else to say that it was.

MR. FABRICIOUS: Each of us must make our own determination on many things.

MR. WALTON: I see. And I take it that that is your opinion that the statement that these four teachers had been illegally non-retained, was trivial?

MR. FABRICIOUS: I consider it to a certain extent, untrue - not necessarily trivial, but untrue.

MR. WALTON: You mean they were legally non-retained.

MR. FABRICIOUS: I say that it was an omission, not a matter of legality.

MR. WALTON: Was it lawful for–

MR. FABRICIOUS: Meeting the procedure.

MR. WALTON: Was it lawful for the Board to terminate Armstrong, Svedlund, Brown and Hollenbock as they did?

MR. FABRICIOUS: It was lawful for them to terminate contracts, but they did not follow correct procedure and notify of termination, let's put it that way.

MR. WALTON: But did they terminate their contracts?

MR. FABRICIOUS: They did, yes.

MR. WALTON: They didn't do it the way the Law required, did they?

MR. FABRICIOUS: They didn't follow correct procedure and notify them about it.

MR. WALTON: You think the non-compliance as far as fire regulations is trivial?

MR. FABRICIOUS: No.

MR. WALTON: You don't think it's trivial, do you, if a Superintendent should in fact state that he had, should in fact threaten to get 1/3 of the faculty this year and half of the remainder next year?

MR. FABRICIOUS: You use the word should.

MR. WALTON: I say should a Superintendent say it, would that be trivial?

MR. FABRICIOUS: In this case I consider it trivial, because I know for a matter of [149] fact - but you're going on a supposition.

MR. WALTON: But if a Superintendent should so conduct himself, would that be trivial?

MR. FABRICIOUS: It isn't especially important to me.

MR. WALTON: Would that be pretty normal conduct for a Superintendent?

MR. FABRICIOUS: Not, necessarily normal, not necessarily normal, no.

MR. WALTON: Now, let's consider number 10, refering to the firing of Mrs. Davis, apparently on the basis of personal dislike. I believe you have testified that she was fired for personal reasons.

MR. FABRICIOUS: I don't know if I even stated the reason why. – I said that I felt it was my right if I so wished.

MR. WALTON: Didn't you state in reply - for personal reasons, when Mr. Burr said for reasons that were personal to you and you said yes.

MR. FABRICIOUS: It could be yes.

MR. WALTON: Think back, wasn't that your testimony?

MR. FABRICIOUS: I don't recall exactly.

MR. WALTON: Well, would that be true?

MR. FABRICIOUS: That I fired her for personal reasons? Now, let's define personal reasons.

MR. WALTON: Yes. Why was she fired?

MR. FABRICIOUS: Do you want me to state here. First of all because I didn't feel she was satisfactory in the capacity in which she was employed. I felt that she was trying to usurp authorities that did not belong to her.

MR. WALTON: Any other reasons?

MR. FABRICIOUS: I believe that would be sufficient.

MR. WALTON: Was there any other reason?

MR. FABRICIOUS: There might have been.

MR. WALTON: What were they?

MR. FABRICIOUS: Well, I'll point out one more. I didn't trust Mrs. Davis - that's enough.

MR. WALTON: Was there any other reason?

MR. FABRICIOUS: There might or might not have been.

MR. WALTON: Well, was there?

[150] MR. FABRICIOUS: I would prefer not to go any deeper into this. I have offered sufficient evidence for releasing Mrs. Davis and that's all that you should expect.

MR. WALTON: Mr. Fabricious - in this proceeding, you are a witness and you are asked to answer questions which are relevant and material. One of the questions in this case is whether or not, the statements made in paragraph 10 of the open letter is false. You have volunteered to testify on the subject of why you fired Mrs. Davis and I am now entitled to ask you to answer my questions and I respectfully request that you do so.

MR. FABRICIOUS: I have given, what to me is sufficient reason. You can call it all the reasons for the record.

MR. WALTON: Were they any other reasons?

MR. FABRICIOUS: I would say there were no other reasons.

MR. WALTON: Let's tell the truth, sir - you're under oath. Were there any other reasons.

MR. FABRICOUS: Yes.

MR. WALTON: What were they?

MR. FABRICIOUS: I felt that she had not been working with me as she should. I felt that in the matter of control of students that I expected students to come in and address her as Mrs. Davis, and she had, I know, had asked that they come in and call her Bea.

MR. WALTON: Were there any other reasons?

MR. FABRICIOUS: No.

MR. WALTON: And for the reason that she permitted students to call her by her first name, you felt that she should be fired?

MR. FABRICIOUS: I gave you several other reasons, too.

MR. WALTON: Would that alone be sufficient?

MR. FABRICIOUS: In my estimation, yes.

MR. WALTON: Why didn't you trust her?

MR. FABRICIOUS: I don't see that it's fair to go into something like that, right now.

MR. WALTON: Mrs. Davis, do you object if I ask that question?

MRS. DAVIS: No, I would like to know.

MR. WALTON: Please answer the question.

MR. FABRICIOUS: Because I felt that she was not working in my interest.

[151] MR. WALTON: And that's why you didn't trust her?

MR. FABRICIOUS: That's right.

MR. WALTON: Why wasn't she - why did you feel that way?

MR. FABRICIOUS: Why did I feel that way? It's sometime difficult to say why you feel a certain way.

MR. WALTON: I'm sure it is - but let's try.

MR. FABRICIOUS: I prefer not to answer that.

MR. WALTON: Will you please answer the question.

MR. FABRICIOUS: What was the question, sir?

MR. WALTON: Why did you feel that you could not trust Mrs. Davis?

MR. FABRICIOUS: I'll give you one reason.

MR. WALTON: Just tell me the truth.

MR. BURR: I'm going to object to the manner in which this examination is being conducted. I don't think that Mr. Fabricious has to be admonished to tell the truth, repeatedly, by Mr. Walton. I'll object to the general line of questioning, Mrs. Davis is not on trial here.

MR. WALTON: No, but one of the issues is whether or not, these matters set forth in the open letter is true. I would not admonish the witness to tell the truth, Mr. Chairman, if the witness will desist from giving me just one answer to a question, when there are apparently more than one. So, I appreciate your suggestion, Mr. Burr, I hope it won't be necessary. So, I'll withdraw the last statement.

Mr. Fabricious, please tell me now, why didn't you trust Mrs. Davis?

MR. FABRICIOUS: Well, I didn't trust her in the correspondence because there were times when I gave her copies of correspondence that did not come from her as had been given her.

MR. WALTON: Could you please explain that, I didn't hear you or understand you, sir.

MR. FABRICIOUS: I said I had given her correspondence, writing out a letter to be typed, transmittal for transcript, and there would be times when she would change the wording, and that would change my meaning. and I didn't trust her in that respect. And this is not necessarily a matter of personal trust, but trusting her ability.

MR. WALTON: Then it wasn't done then deliberately, was it?

MR. FABRICIOUS: No, not necessarily.

MR. WALTON: Really, it wasn't a question of not trusting her when you just couldn't rely on her, is that it?

MR. FABRICIOUS: That could be part of it.

[152] MR. WALTON: Did this happen frequently?

MR. FABRICIOUS: I don't recall how often.

MR. WALTON: Well, over 8 months prior, did it happen 3 or 4 times?

MR. FABRICIOUS: Oh I would say about that.

MR. WALTON: Do you remember the morning in which you fired Mrs. Davis?

MR. FABRICIOUS: Yes, I remember it.

MR. WALTON: Do you feel that was the sort of thing that need not be submitted to the Board?

MR. FABRICIOUS: That had been discussed with the Board previously.

MR. WALTON: And you didn't feel you could trust Mr. Swick, either, did you?

MR. FABRICIOUS: I've never said that.

MR. WALTON: Did you feel you could trust him.

MR. FABRICIOUS: I've never at any time expressed any feeling regarding trust or distrust of Mr. Swick.

MR. WALTON: Tell us now, please, do you feel that you could trust Mr. Swick?

MR. FABRICIOUS: In what capacity?

MR. WALTON: As a teacher?

MR. FABRICIOUS: As a teacher, yes.

MR. WALTON: As a subordinate employee?

MR. FABRICIOUS: I would say this that I would not feel that I could rely on Mr. Swick to be always carrying out his work, with respect to hours and time and such as that.

MR. WALTON: But you would not expect him to do anything dishonest?

MR. FABRICIOUS: No.

MR. WALTON: Or self-seeking, with detriment to yourself?

MR. FABRICIOUS: Oh, I wouldn't say that, no.

MR. WALTON: You think he could do that?

MR. FABRICIOUS: I think he could. I think he did.

MR. WALTON: He did.

MR. FABRICIOUS: It's very possible.

[153] MR. WALTON: Well, do you really think he did so or not?

MR. FABRICIOUS: Yes, I do.

MR. WALTON: Especially, in what way?

MR. FABRICIOUS: By attempting to undermine the administration here.

MR. WALTON: By administration you refer to your own position?

MR. FABRICIOUS: To the Board as well.

MR. WALTON: Yes, do you feel the same way of Mr. Watts, do you?

MR. FABRICIOUS: Yes.

MR. WALTON: And, Mr. Blue? You feel they might undermine the position of the administration? For personal gain?

MR. FABRICIOUS: In a sense, yes.

MR. WALTON: And did you feel that way about Mrs. Hollenbeck, also?

MR. FABRICIOUS: No - no.

MR. WALTON: I believe you are familiar with the notices of non-retention and bills of particulars which were addressed to Appellants Blue and Watts?

MR. FABRICIOUS: To some extent, yes.

MR. WALTON: Did you have any part in their preparation.

MR. FABRICIOUS: No.

MR. WALTON: Do you know who prepared them?

MR. FABRICIOUS: I believe the attorneys prepared them.

MR. WALTON: Were they furnished any written information on the basis of which they were prepared?

MR. FABRICIOUS: I believe they were furnished information by the board.

MR. WALTON: Not by yourself?

MR. FABRICIOUS: Not by myself.

MR. WALTON: At the time they were prepared did you have an opportunity to read them before they were delivered to the Appellants?

MR. FABRICIOUS: Yes.

MR. WALTON: And you believe that they stated truth, facts, do you?

MR. FABRICIOUS: Yes.

[154] MR. WALTON: Therein it is alleged, is it not, that the Appellants have been engaged in immoral activities. Do you really believe that the appellants were engaged in immoral activities, sir?

MR. FABRICIOUS: That depends upon the definition of immoral.

MR. WALTON: As you use the word.

MR. FABRICIOUS: As I would define immoral activities, in their attempting to go out, as they did to secure a recall of the Board, I consider that immoral in a sense, yes. In that they were out working against their employing group - the people who employed them. I would feel that

were I to go out to work against my employer, that it wouldn't be consider a moral act.

MR. WALTON: Do you have any rights under the Tenure Law, sir?

MR. FABRICIOUS: I do.

MR. WALTON: Are there any particulars in which you feel the appellants were engaged in immoral activities? If not, please say so.

MR. FABRICIOUS: I'm trying to think of the bill of particulars - that would help me.

MR. BURR: Let me have Exhibit–

MR. WALTON: If it please the Board I would like to ask Mr. Fabricious if he can remember any from his own personal recollection, Mr. Fabricious.

MR. BURR: I should like to if he has no recollection I should like to tender this exhibit for his examination.

MR. WALTON: Mr. Fabricious, can you recollect any without looking at that exhibit in your hands?

MR. FABRICIOUS: I've pointed out one thing.

MR. WALTON: Can you think of any others? Without looking at the exhibit in your hands?

MR. FABRICIOUS: No, I don't believe I can.

MR. WALTON: Do you feel that the Board was proper in indeavoring to non-retain these teachers for that reason as immoral conduct?

MR. FABRICIOUS: I would have objected to it if I felt otherwise.

MR. WALTON: Was the immoral conduct the distribution of the petition, the signing it, or the preparation, or which?

MR. FABRICIOUS: It would be, I would say, the entire activity concerned with trying to remove their employing body.

MR. WALTON: Let us suppose and this in fact may be the case with one of these appellants - my recollection of the testimony is not too clear - let us suppose that one of these appellants in fact only distributed the petition for recall, but did not author and did not even sign it.

[155] MR. WALTON: Would you say that that constituted immoral activity justifying his non-retention as a teacher?

MR. FABRICIOUS: Let me have this question again?

MR. WALTON: If a teacher circulated a petition for recall of School Board members, but did not sign it and did not assist in the preparation of it, would that constitute immoral activities.

MR. FABRICIOUS: I would consider that anyone who would circulate the petition would have to believe in the petition, or he would be very foolish to circulate it, and in circulating it I would say he believed in it and I would consider it immoral, yes, in circumstances such as this.

MR. WALTON: Then I take it you would also consider it immoral for a person to participate in or even sanction the authorship of such a petition?

MR. FABRICIOUS: You say the authorship - no if he was simply acting as somebody to write it up - but if he was writing it up with the idea that he believed in it - then I would say it was, yes.

MR. WALTON: But if he didn't believe in it it wouldn't be immoral? Is that it?

MR. FABRICIOUS: If he didn't believe in it he would be very foolish to take part in it.

MR. WALTON: But it wouldn't be immoral?

MR. FABRICIOUS: If he didn't believe in it - to write it up - just to write out anything has no bearing as long as it's contributed to anyone else.

MR. WALTON: But if it's written out and sanctioned for the purpose of distribution, that would be immoral?

MR. FABRICIOUS: If it's sanctioned by him for distribution, yes I would consider that.

MR. WALTON: I take it that in your opinion, therefore, that all the persons of the AFT who sanctioned the distribution of this particular petition were immoral?

MR. FABRICIOUS: No, because I don't personally think that a great many members of the AFT had anything to do with it.

MR. WALTON: Let us suppose that they did sir, would you thereby conclude that their conduct was immoral?

MR. FABRICIOUS: If they were working against their employing group, yes.

MR. WALTON: And if they in fact were members of a group which voted to, and pursuant thereto did distribute a petition for recall, would they not be guilty of immoral conduct?

MR. FABRICIOUS: Not - in fact I rather question that the most of them ever really had any true chance to vote on this.

[156] MR. WALTON: I give you a hypothetical - simply hypothetical - would these persons be immoral?

MR. FABRICIOUS: Let's have this question again?

MR. WALTON: Members of a group which formally vote at a meeting to prepare, distribute and circulate a petition for recall of school board members - would members of the group which sponsored such a petition be immoral?

MR. FABRICIOUS: I would certainly say that their morals could be questioned in that respect, yes - if they're out as you say to pull down their employing body.

MR. WALTON: Well, if they distributed a petition for recall, what other purpose could they have?

MR. FABRICIOUS: Well, that's it - as I say that's the—

CHAIRMAN CASEY: We will have a five minute recess.

Recessed at 4:05 PM - reconvened at 4:15 PM.

CHAIRMAN CASEY: The meeting will be reconvened.

MR. WALTON: Mr. Fabricious, I refer your attention again to this interesting letter of January 16, 1959, addressed to you, signed by Mr. Howell. Do you recall the letter? Did you say that the Board instructed you to call a Faculty meeting?

MR. FABRICIOUS: They instructed me to bring it to the attention of the teachers, yes.

MR. WALTON: They didn't instruct you to call a faculty meeting, did they?

MR. FABRICIOUS: They instructed me to bring it the to the attention of the teachers.

MR. WALTON: There was discussion between you and the Board before you were so instructed, was there?

MR. FABRICIOUS: That's right.

MR. WALTON: And it states in the first paragraph quote "it has come to the attention of the Board who are not conforming to the accepted code of ethics". Was this paragraph discussed between you and the Board?

MR. FABRICIOUS: I don't recall if it was - there was a general discussion about teacher's ethics and so-forth.

MR. WALTON: Actually, were there any teachers, on January 1959, who were not conforming to the accepted code of ethics under your supervision?

MR. FABRICIOUS: We thought there were, yes.

MR. WALTON: Who did you think they were?

MR. FABRICIOUS: That had not yet been ascertained. Had we known exactly who we thought were doing that we would have taken them individually and not brought [157] it before the entire group.

MR. WALTON: Thought were doing what?

MR. FABRICIOUS: Were carrying on unethical conduct.

MR. WALTON: You say you thought that there were some who were doing unethical things?

MR. FABRICIOUS: We felt that they were, yes. In fact the Board themselves felt that they were. I follow instructions there from the Board.

MR. WALTON: But the Board didn't know who they were. Is that correct?

MR. FABRICIOUS: As far as my knowledge of what the Board knew, I cannot answer for that.

MR. WALTON: But they didn't tell you anyhow, who they were?

MR. FABRICIOUS: No, they did not.

MR. WALTON: Did they tell you what the unethical conduct was?

MR. FABRICIOUS: Oh, I can't recall on that.

MR. WALTON: Was there any unethical conduct being engaged by anyone at that time of the year?

MR. FABRICIOUS: Certainly, they must have felt there

was or they would never have given me such instructions.

MR. WALTON: You discussed it with them, didn't you?

MR. FABRICIOUS: That's right.

MR. WALTON: They didn't tell you what the unethical conduct was?

MR. FABRICIOUS: I don't recall the exact words of the discussion, no.

MR. WALTON: But just generally, do you remember what the unethical conduct was?

MR. FABRICIOUS: Well, they felt, I believe, a part of it was resistance against the rules and regulations that had been set up.

MR. WALTON: What sort of rules and regulations?

MR. FABRICIOUS: Well, the rules and regulations that came out in the matter of policy.

MR. WALTON: Which ones were those?

(Mr. Fabricious: following only mumbled.)

MR. WALTON: So there was resistance to this Exhibit 12 as early as January 1959?

MR. FABRICIOUS: Oh, I believe there was, yes.

MR. WALTON: And you don't remember who resisted it?

[158] MR. FABRICIOUS: Well, I do recall that there were some of them that came to me and asked about this matter of having to go to school, yes.

MR. WALTON: Some of the teachers didn't want to go to school in the morning, is that?

MR. FABRICIOUS: No, they didn't want to go out for additional training.

MR. WALTON: And that is the conduct you were referring to?

MR. FABRICIOUS: Not - that was a part of it - that's one thing I do recall.

MR. WALTON: Is that the worst thing?

MR. FABRICIOUS: I would say that I wouldn't know what would be considered the worst - no.

MR. WALTON: Which portion of conduct sticks out most clearly in your memory?

MR. FABRICIOUS: Well, there was considerable discussion amongst teachers over there in the matter of Mr. Condor and his resignation. There was considerable talk regarding Jesse Moore and the position of janitor. And we felt for one thing, in fact my own feeling in it was that the relationship between the Superintendent and the Janitor, or the Board and the janitor was not something that the teachers had anything to do with.

MR. WALTON: Was there any other element of this unethical conduct that you can recall.

MR. FABRICIOUS: I don't recall.

MR. WALTON: But it was serious enough, wasn't it, to call a faculty meeting?

MR. FABRICIOUS: Well, we called it, didn't we.

MR. WALTON: And you really believe, sir, that it was unethical for those teachers to discuss Jesse Moore's problems, and Joe Condor's problems, and the request for extension of time to fill credit requirements - is that unethical conduct?

MR. FABRICIOUS: May I explain please - we did have one teacher there in the system at that time who was doing considerable running from one room to another, making comments to one teacher or another, and creating considerable turmoil as a result of it.

MR. WALTON: Who was that?

MR. FABRICIOUS: A Mrs. Svedlund - was one - whether there were others I'm not—

MR. WALTON: And her unethical conduct consisted of what - going from one teacher's room to another?

MR. FABRICIOUS: Not merely going from one room to another but carrying tales from one room to another, yes.

MR. WALTON: And how did you correct that problem?

[159] MR. FABRICIOUS: There was no correction made of it other than this was the first attempt to bring to their attention what we felt was unethical conduct.

MR. WALTON: Was there any other unethical conduct referred to here or in your contemplation when you discussed this matter with the Faculty?

MR. FABRICIOUS: I believe that's considered the most of it - the running from room to room and the talk to stir up discontent among the teachers.

MR. WALTON: Who did that?

MR. FABRICIOUS: I just got through telling you.

MR. WALTON: Just Mrs. Svedlund?

MR. FABRICIOUS: No, probably she was not the only one.

MR. WALTON: Who were the others?

MR. FABRICIOUS: To name them out by name, I can't say that I can do that.

MR. WALTON: Why didn't you just call the individuals in your office and have a friendly talk with them?

MR. FABRICIOUS: I was obeying instructions from the Board.

MR. WALTON: I see - do you know why the Board felt that this was so important to call a faculty meeting?

MR. FABRICIOUS: The Board may have heard many things that I wasn't informed about.

MR. WALTON: And they didn't tell you about it, did they?

MR. FABRICIOUS: I don't recall.

MR. WALTON: Was it, in your opinion, sir, unethical for some of the teachers to discuss Jesse Moore's problem?

MR. FABRICIOUS: Not to discuss it necessarily, no.

MR. WALTON: Was it unethical for some of the teachers to discuss Joe Condor's problem?

MR. FABRICIOUS: Not to discuss his problem, no.

MR. WALTON: What was it that the teachers did with respect to those two persons, which was unethical?

MR. FABRICIOUS: Well, as far as Jesse Moore, for teachers to bandy and carry statements out, as it appeared that they were doing, to the community regarding this, and to apparently be taking sides on some of these issues, I would consider it out of line, yes.

MR. WALTON: Taking sides against the administration?

MR. FABRICIOUS: Oh, not necessarily.

[160] MR. WALTON: Well, were they in fact, taking

sides against your position with respect to Moore and Condor?

MR. FABRICIOUS: I don't know.

MR. WALTON: And that, sir, is unethical conduct that justifies firing teachers, sir?

MR. FABRICIOUS: I didn't say anybody was fired on this.

MR. WALTON: Oh, I'm asking though.

MR. FABRICIOUS: If it was carried far enough, I would say yes.

MR. WALTON: Did they carry it far enough?

MR. FABRICIOUS: I can't answer that.

MR. WALTON: Mrs. Svedlund also was a member of the AFT when it adopted the resolution to circulate a petition for recall, was she not?

MR. FABRICIOUS: I don't know.

MR. WALTON: Haven't you ever been so advised?

MR. FABRICIOUS: No.

MR. WALTON: Had you been so advised, would it in you opinion, have been a good thing to terminate her?

MR. FABRICIOUS: Because she was a member of the AFT?

MR. WALTON: Because she was a member of the AFT at the time when it sanctioned circulating petition for recall and because she had as you say, spread tales from room to room?

MR. FABRICIOUS: If spreading tales would create enough furor in the school, I would feel that was a good reason for removing her, yes.

MR. WALTON: But had you realized that Mrs. Svedlund in fact had been a member of AFT at that time, would you in your mind, felt that she should be non-retained for unethical conduct?

MR. FABRICIOUS: You're taking a hypothetical case?

MR. WALTON: Yes.

MR. FABRICIOUS: And if she was, if she actively took part in going for a recall of the School Board, I would consider it unethical, yes.

MR. WALTON: And it would justify non-retention?

MR. FABRICIOUS: In my opinion, yes.

[161] MR. WALTON: I believe you have read some of the minutes of the AFT meetings which indicate that some teachers who are still employed by your system.

MR. FABRICIOUS: I have never read any of their minutes.

MR. WALTON: Haven't you been presented with one yesterday?

MR. FABRICIOUS: No, I was not presented with one.

MR. WALTON: You didn't look at one yesterday?

MR. FABRICIOUS: I did not.

MR. WALTON: Well, if you were to learn that some of your present teachers were members of the AFT at that time, would you believe that they should be non-retained for unethical conduct?

MR. FABRICIOUS: I believe this - that if something comes up, that we can have a very few who stir up furor and get a thing started and you have a good many who go along, not really being definitely for the move and in the manner of sort of following the crowd they believe these things and wish afterwards that they had not.

MR. WALTON: I see. If a man is repentant, then he is no longer unethical, is that it?

MR. FABRICIOUS: If his repentance—

MR. WALTON: His prior conduct all of a sudden becomes ethical?

MR. FABRICIOUS: I wouldn't say the matter of repentance would necessarily make him no longer unethical - unethical, the matter of ethics is a matter of conduct, too.

MR. WALTON: Well, why is it sir, that Mr. Watts and Mr. Blue, of all the AFT members, were non-retained for unethical conduct engaged in by them as AFT members.

MR. FABRICIOUS: Let me correct you, just a moment here. Mr. Watts and Mr. Blue's non-retention had nothing to do with the AFT and was never considered in that light by the School Board or by myself.

MR. WALTON: Isn't it true that they were non-retained

for the very activities that they have testified that they did on behalf of AFT?

MR. FABRICIOUS: They are hiding it under the guise of AFT, yes.

MR. WALTON: But they did do it on behalf of and pursuant to AFT's action, didn't they?

MR. FABRICIOUS: And that's how they expect to escape the responsibility for their acts, yes.

[162] MR. WALTON: Now, Mr. Fabricious, no one is trying to escape responsibility. You have heard Mr. Watts testify he is perfectly willing to assume responsibility for his acts and he is responsible for his acts and I don't want to argue that with you. So, kindly, just answer this question - the acts which they undertook in pursuant to AFT's functions, were they unethical acts?

MR. FABRICIOUS: As acts, yes.

MR. WALTON: Why is it that they, as opposed to members of the same organization, were non-retained?

MR. FABRICIOUS: Because I believe in my opinion they did not desist from continuing these acts as other members did.

MR. WALTON: I see - so that actually it really wasn't the circulating of the petition - it was the circulation of the petition, and the failure to desist, which constituted the unethical conduct, warranting their non-retention, right?

MR. FABRICIOUS: I believe it was the culmination of all.

MR. WALTON: I see - so in and of itself that there was nothing warranting non-retention just by circulating a petition for recall, was there?

MR. FABRICIOUS: I would say so, yes.

MR. WALTON: Is there anything in and of itself, wrong with circulating the open letter, which by itself justifies non-retention?

MR. FABRICIOUS: I believe there was, yes.

MR. WALTON: What about the other members of the AFT at that time who approved of the contract, why were not they non-retained?

MR. FABRICIOUS: You better ask the Board that question. I don't have the say on the retention of teachers.

MR. WALTON: Do you feel they should have been non-retained?

MR. FABRICIOUS: Not, necessarily, no. - if they desisted from the acts later.

MR. WALTON: Now, then, there again, just like the petition, it's not just the circulation alone, it's circulation plus the failure to desist which makes the conduct warranting non-retention.

MR. FABRICIOUS: The circulating of the letter was one act.

MR. WALTON: Yes and if they desisted it's another act, right?

MR. FABRICIOUS: And carrying the petition was another act.

MR. WALTON: Take all those three - they justify non-retention, is that your testimony?

MR. FABRICIOUS: I would say that any one of them would justify non-retention under certain circumstances.

[163] MR. WALTON: Well, what circumstances separated Mr. Blue or Mr. Watts from the other members of the AFT?

MR. FABRICIOUS: Because they were far more instrumental in this than the other members were.

MR. WALTON: Because they were officers of the AFT?

MR. FABRICIOUS: No - because they were actively engaged in this.

MR. WALTON: Did you carefully investigate to determine whether or not they were the only AFT members?

MR. FABRICIOUS: No, I didn't.

MR. WALTON: Don't you feel you should have before you, I presume that you recommended their termination?

MR. FABRICIOUS: That's right.

MR. WALTON: And did you recommend the termination of other persons for the same conduct?

MR. FABRICIOUS: No.

MR. WALTON: Didn't you feel that such a serious

charge would warrant investigation of all the facts involved?

MR. FABRICIOUS: Will you clarify that - you mean by investigation.

MR. WALTON: I mean you certainly didn't feel that this AFT conduct was entirely and solely Mr. Watts, Mr. Blue and Mr. Swick, did you?

MR. FABRICIOUS: I felt that certainly they were the heart and soul of it, yes.

MR. WALTON: They were what?

MR. FABRICIOUS: That they were the heart and soul of the whole thing.

MR. WALTON: You thought that if you could crush the heart and soul, that would kill the union, didn't you?

MR. FABRICIOUS: No, I had no - it was not the question of union at all with me. It was the question of them as individuals.

MR. WALTON: I see - you felt that they were ring leaders?

MR. FABRICIOUS: To some extent, yes.

MR. WALTON: And that was why you felt that they were more apprehensible.

MR. FABRICIOUS: No, not necessarily. I felt that people that were engaged in that sort of activities and would continue with it in spite of a matter of, you might say, a notion that we knew it was happening and so on, and I felt that if they continued after that, that certainly that [164] they had had warning enough to stay out of it.

MR. WALTON: In other words -

MR. FABRICIOUS: They were offered a contract - they had a contract - immediately after their contracts were received, a lot of this word on - they were continuing to go through for a year - had they desisted from these acts they probably would still be members of this faculty.

MR. WALTON: Really.

MR. FABRICIOUS: I believe so, yes.

MR. WALTON: Had they desisted in the summer of 1959 - wouldn't that have been too late then?

MR. FABRICIOUS: They were carried on for a year following that - don't forget that?

MR. WALTON: Then they - well, I mean to say had they desisted in the summer of '59 from pursuing this matter - do you feel they would still be members of this faculty?

MR. FABRICIOUS: If they complied with other regulations, I believe they would have, yes.

MR. WALTON: Then it must be that their non-rention can be explained on the basis of other things since the summer of '59?

MR. FABRICIOUS: Possibly.

MR. WALTON: Well, please tell me what these are.

MR. FABRICIOUS: Well, they continued the fight, did they not?

MR. WALTON: Oh. Because they hired attorneys?

MR. FABRICIOUS: Oh, no.

MR. WALTON: Well, how else did they continue to fight?

MR. FABRICIOUS: Well, that would be one act of it, yes.

MR. WALTON: In what other way did they continue to fight it besides hiring attorneys?

MR. FABRICIOUS: Oh, they continued to put out information whenever they could. I happened to know that Mr. Watts spent a good bit of time running from room to room trying to plead their case, individual to individual. I talked to a number of people from the University this summer, Mr. Watts with any group that he could get together would continue to go on with a dissertation of his wrongs; how he had been wronged in the community. I felt that was certainly continuance.

MR. WALTON: And these people all told you that?

MR. FABRICIOUS: A number of people, yes.

MR. WALTON: Let's have their names, please?

[165] MR. FABRICIOUS: One of them happens to be Lyman Allen.

MR. WALTON: Lyman Allen?

MR. FABRICIOUS: Lyman Allen, yes.

MR. WALTON: Does the Board know about Lyman Allen's statements to you?

MR. FABRICIOUS: I don't think so.

MR WALTON: Then Lyman Allen's statements wasn't basis for non-retention?

MR. FABRICIOUS: Oh no.

MR. WALTON: Anyone else who made any statements to you about their conduct subsequent to the summer of 1959?

MR. FABRICIOUS: Subsequent? - Oh, this has been a matter of general discussion with many people you meet - it's widely known throughout the state. I will say that in our recent Superintendent's meeting it received considerable attention down here.

MR. WALTON: Where was that?

MR. FABRICIOUS: Juneau.

MR. WALTON: When?

MR. FABRICIOUS: Oh what was the dates on that? - October - 12, 13 & 14.

MR. WALTON: This year?

MR. FABRICIOUS: Yes.

MR. WALTON: The reason I am asking this is because under the statute these teachers have the right to know why they were non-retained and I take it from your testimony, Mr. Fabricious, please correct me if I'm wrong. I take it from your testimony that the reason they were non-retained is, in part, because they didn't desist after the summer of '59? Is that correct?

MR. FABRICIOUS: Well, that would be part of it - after all, what reasons I give for non-retention are not necessarily the reasons that might be advanced by members of the Board. I can have my own opinion - you're getting my opinions - you're not getting the Board's because I can't speak for the Board as individuals.

MR WALTON: Only for yourself.

MR. FABRICIOUS: That's right.

MR. WALTON: Your opinion is that failure to desist from this pursuit after the summer of '59 is part of the the reason why the Board terminated these men?

MR. FABRICIOUS: I wouldn't know on that.

[166] MR. WALTON: You haven't discussed it with them?

MR. FABRICIOUS: Not necessarily discussed it with them.

MR. WALTON: You haven't?

MR. FABRICIOUS: It's been discussed, but as to what extent, or if it's a matter of they desist or what, I couldn't say on that.

MR. WALTON: In your opinion, I take it, this much is correct, that had those men desisted from their attempts to recall the School Board and so-forth after the summer of '59, then they would not have been non-retained in your opinion?

MR. FABRICIOUS: It's a possibility.

MR. WALTON: Then their prior conduct would not have been sufficiently unethical to warrant non-retention?

MR. FABRICIOUS: I didn't say - there can be a forgiveness in there too, even though you might consider their conducts unethical enough to have warranted it at the time - then they would have subsequent conduct been such and they indicated any desire to cooperate with us and go along, than I felt that the matter would have been looked at completely different.

MR. WALTON: Well, could you just try and pin down, sir, after the summer of '59, how was it that these appellants failed to cooperate, as you say, and how is it they failed to abide by regulations?

MR. FABRICIOUS: After the summer of '59 - let's see they were there in '59-60 - yes - they, as I say, had not complied with regulations - they had continued non-compliance with the Board regulations adopted by the Board.

MR. WALTON: Even after July of 1959?

MR. FABRICIOUS: Let's see - July '59 - '58-59 - what was the year - they worked '59-60 didn't they?

MR. WALTON: Yes, they did work '59-60.

MR. FABRICIOUS: Now, state your question again please.

MR. WALTON: Yes, now did they violate any regulations of the School Board after July, 1959?

MR. FABRICIOUS: I would say yes, in that they did not lodge complaints - nothing had changed as far as that is concerned.

MR. WALTON: Let's take these individually now - Mr. Blue. Can you please tell me with respect to Mr. Blue, when did he violate this Sec. 1, 7, after July of 1959?

MR. FABRICIOUS: Well, first of all,- you mean as far as the rules and regulations?

MR. WALTON: Yes.

[167] MR. FABRICIOUS: I can't say that I can state a specific instance, no. I feel that his continuance in the effort to recall of the Board was sufficient to warrant his non-retention and I don't think anything else needed to be considered - as far as this non-retention.

MR. WALTON: Other than his continued efforts in the recall election, did Mr. Blue violate any of the regulations of the School Board after July, '59?

MR. FABRICIOUS: I don't recall if he did.

MR. WALTON: The same question with respect to Mr. Watts.

MR. FABRICIOUS: All I can say is that I don't recall if he did.

MR. WALTON: But it is definite in your opinion that by continuing to push the recall election, these people were violating the rules and regulations of the Seward School Board?

MR. FABRICIOUS: I said in my opinion it warranted that they not be retained on the school.

MR. WALTON: On what reason - immoral conduct or violations of regulations?

MR. FABRICIOUS: I would say immoral conduct.

MR. WALTON: Would it in your opinion have been a violation of regulations?

MR. FABRICIOUS: No, because they have already violated the regulations by not coming through with the grievances prior to starting the petition.

MR. WALTON: Please try and answer the question. Did their continued efforts in the recall election after July 1959

constitute in of itself a violation of the regulations of the Seward School Board.

MR. FABRICIOUS: I don't believe so, no.

MR. WALTON: Then, in what respect did they violate the regulations after the summer of 59?

MR. FABRICIOUS: Specifically, I can't say.

MR. WALTON: Are you then prepared to testify that you don't know of any instances following the summer of '59 when they did violate the regulation?

MR. FABRICIOUS: I would testify to that - I don't know of any specific violations in their case.

MR. WALTON: I believe you testified yesterday - I'm sorry - I believe you advised me personally yesterday that Exhibit 5 first came into your hands - that's the Miller letter - first came into your hands on the night of our first hearing, April 8, 1960.

MR. FABRICIOUS: It didn't come into my hands at all - it came into the hands of the Board.

MR. WALTON: On that day?

[168] MR. FABRICIOUS: I believe so.

MR. WALTON: Do you know how they came into its possession?

MR. FABRICIOUS: I'm not so sure I know - I didn't see it delivered.

MR. WALTON: Had you ever seen it before then?

MR. FABRICIOUS: No.

MR. WALTON: Have you ever discussed that letter with the Board before then?

MR. FABRICIOUS: No.

MR. WALTON: Was it solicited?

MR. FABRICIOUS: Not to my knowledge, it was not.

MR. WALTON: It was volunteered?

MR. FABRICIOUS: As far as I know.

MR. WALTON: Sir, do you believe that the Executive committee of the SDTA, or the members representing it, violated the same regulations when it first approached the Board with respect to non-retention of those four teachers?

MR. FABRICIOUS: Well I believe they - I recall testi-

mony which shows that they sent me a letter at the same time.

MR. WALTON: Is that what E7 provides for?

MR. FABRICIOUS: Well, that would be one way of providing for it.

MR. WALTON: Doesn't it say that all grievances shall be submitted to the Board through the Superintendent?

MR. FABRICIOUS: I believe if you go further along you will see that they may at the same time be sent to members of the Board.

MR. WALTON: Was the communication of the SDTA addressed to you, sir, or to the Board?

MR. FABRICIOUS: I don't recall - I believe there was one addressed to me and another addressed to the Board. I can't be certain of that.

MR. WALTON: To refresh your recollection. Sub-paragraph 9 provides that. Employees, or groups of employees desiring to address the Board shall address their communication to the Superintendent except copies may be sent to Board members. Does that mean sir, and I ask you because you originated this regulation, does that mean, it is a violation of this regulation for a person to send a letter to the Board and a copy to you, but it isn't a violation to send a letter to you and a copy to the Board?

[169] MR. FABRICIOUS: Well, it's probably my own personal view of it, if we both received copies of it, there would be no violation.

MR. WALTON: It doesn't matter so much who it's addressed to, if you both hear about it at the same time, is that it?

MR. FABRICIOUS: Well, if it's addressed to me and I had a copy and they have a copy, I would see no point of arguing over that.

MR. WALTON: Over whom it's addressed to?

MR. FABRICIOUS: That's right.

MR. WALTON: With respect to these Appellants, did they ever advise the Board of any complaints before they advised you?

MR. FABRICIOUS: I don't know that they have.

MR. WALTON: And if they didn't they didn't violate the regulations, did they?

MR. FABRICIOUS: You mean if they - say it again?

MR. WALTON: Well, sub-paragraph 9 indicates it's not a violation of the regulations to submit communications to both you and the Board simultaneously, does it not?

MR. FABRICIOUS: That's right. That would be my interpretation of it - others might possibly interpret it a little differently - I couldn't say.

MR. WALTON: As far as you are concerned if a communications is addressed to you and the Board simultaneously, there is no violation of regulations?

MR. FABRICIOUS: That would be my interpretation of it.

MR. WALTON: Very well. Now in the case of Appellants Blue and Watts, did they ever communicate to the Board at anytime without at the same time, previously communicating to you?

MR. FABRICIOUS: I don't recall that they did, no.

MR. WALTON: Then do you recall any instances when they violated the regulations, sir?

MR. FABRICIOUS: In fact, I have never received any correspondence from them, so I would not be in a position to state.

MR. WALTON: So you could not testify that they have violated the regulations, could you?

MR. FABRICIOUS: Not that specific violation. I couldn't testify that they had, no.

MR. WALTON: Let's take the other regulations - assuming this is a regulation of the Board. Sub-paragraph 7 - that states that grievances, compliants, and communications shall be submitted to the Board through the Superintendent, do I understand you to state that in your opinion, as the one who drafted this regulation, that paragraph is qualified by paragraph 9, which says it's ok to do it to the Board simultaneously?

[170] MR. FABRICIOUS: Well, if you go back to the

other paragraph, it states there, it's stated in there - my interpretation of it would be that it should be to the Superintendent, but it doesn't prevent you from at the same time sending it to the Board.

MR. WALTON: Oh, I see. So, actually, 7 doesn't really mean what it says, does it?

MR. FABRICIOUS: May I read it?

MR. WALTON: Yes - 7 - Perhaps we could give Mr. Fabricious a copy of this?

MR. FABRICIOUS: Yes, it states grievances, communications, complaints shall be submitted to the Board through the Superintendent, all right.

MR. WALTON: Now, I asked you earlier whether or not the Executive Committee of the SDTA violated any regulations when they went to the Board first, and you stated, no, because paragraph 9 explains 7, it says they can do it if they do it simultaneously to both the Board and the Superintendent - is that your testimony?

MR. FABRICIOUS: The Board might interpret that different than I do. They are the ones to decide.

MR. WALTON: As far as you're concerned, paragraph 7 is qualified by paragraph 9.

MR. FABRICIOUS: I would say that 7 should certainly take precedence.

MR. WALTON: Oh, then it is a violation for an employee to submit a communication to the Board and simultaneously send a copy to the Superintendent? Even though mine appears to say you can do it?

MR FABRICIOUS: I have never been put in a position to have to interpret this and decide on it, I would say that we would have to go specifically by this even though my former statement might have indicated differently.

MR. WALTON: When you say we should go specifically by this, what do you mean?

MR. FABRICIOUS: I would say start with number 7.

MR. WALTON: In other words, 7 does take precedence?

MR. FABRICIOUS: I would say so, yes.

MR. WALTON: And you're the one who drafted these regulations?

MR. FABRICIOUS: That's right. It has never been to my personal attention that it needed to be acted upon.

MR. WALTON: Well, that's the purpose of this hearing. Now, and I presume you have thought about this before, have you?

MR. FABRICIOUS: Not specifically, no.

[171] MR. WALTON: Then, I take it that the SDTA Executive Committee did violate a regulation when it communicated to the Board without previously going through you?

MR. FABRICIOUS: According to this, that appears to be the case.

MR. WALTON: And the members of that committee must have been guilty of unethical conduct, in your opinion, correct?

MR. FABRICIOUS: If you want to interpret it that way, yes.

MR. WALTON: Do you interpret that violations of regulations to be unethical conduct? Do you sir?

MR. FABRICIOUS: Violations of regulations to be unethical? I would say that inasmuch as teacher in signing their contract agrees to bide by the rules and regulations of the Seward School Board, then you would have to class it as unethical, yes.

MR. WALTON: So, I take it the Executive Committee was unethical?

MR. FABRICIOUS: If that's the interpretation that must be taken, yes.

MR. WALTON: Well, that is your interpretation?

MR. FABRICIOUS: My interpretation would have to be in accordance with this, yes - we're not citing any specific instances.

MR. WALTON: Well, let's take a specific instance in which the SDTA sent the Executive Committee to the Board. Do you know who the members of that committee were?

MR. FABRICIOUS: As far as my recollection, no - I don't recall that the Executive committee ever went to the Board when I was not present.

MR. WALTON: They addressed a communication to the Board, did they not?

MR. FABRICIOUS: They may have, I don't know - I don't recall any communication.

MR. WALTON: They didn't submit all their communication through you, did they?

MR. FABRICIOUS: I don't recall - I didn't bring myself up in this in anticipation to answer each questions.

MR. WALTON: Mr. Fabricious, I'm going to try and ask you if you remember the names of the persons who were on the Executive Committee and I ask you were they not, Swick, Watts, Copeland and Winninghoff?

MR. FABRICIOUS: I don't know - there were more than one group and I don't recall specifically - I couldn't specifically separate the groups. I recalled that Copeland, Winninghoff were there.

MR. WALTON: And Watts and Swick?

MR. FABRICIOUS: I remember Swick, but I don't recall whether Watts was or not.

[172] MR. WALTON: Watts has testified today that he was also a member of the committee.

MR. FABRICIOUS: Well, it's alright, then.

MR. WALTON: And there were four members, whose identity we now know, correct?

MR. FABRICIOUS: According to that, yes.

MR. WALTON: And I take it that all four of those members were therefore guilty of unethical conduct?

MR. FABRICIOUS: In that they—

MR. WALTON: In that they contacted the Board directly regards to the illegal non-retention of certain teachers without first going through you?

MR. FABRICIOUS: Well, I would consider it slightly different in that I was with the Board at the time of this meeting.

MR. WALTON: I thought you said that number 7 requires them to go through you, not to both simultaneously, sir?

MR. FABRICIOUS: The requirement does say that, but

in my own feeling about it and I believe that does enter in. the fact that I was there at the time of the meeting, would be something, I would say, of an extenuating circumstances.

MR. WALTON: I see, so that paragraph 7 doesn't mean what it appears to say after all?

MR. BURR: I'm going to object to arguing with the witness as to what this means or doesn't mean - this is to look at the facts, not to get legal opinions from the witness as to what the effect is, I think that's for the appellant more to say - I'll object to the line of questioning.

MR. WALTON: And if I may be heard on that, your Honor, or Mr. Chairman. I'm only interrogating the very author of the regulation in question. He himself has changed his opinion not less than three times upon interrogating.

MR. BURR: Started to interrupt - couldn't get his words and then

MR. WALTON: And I expect the chairman to permit me to finish. Certainly, the author would know what the extent of the regulation is. If these persons jobs are at stake, and if their jobs hinged upon interpretation of the regulation, certainly we are entitled to inquire as to what it's meaning is. I can't think of a better source than the author himself. Ambiguous and equivocal though his interpretations might be.

MR. BURR: Unfortunately you're not running the Appellant proceedings, so we'll have to continue.

MR. WALTON: And I'm sure the Board wants all the facts it can get before the State Department of Education.

CHAIRMAN CASEY: Objection overruled - before you go ahead, I would like to say something, Mr. Walton. The feeling of the Board that we won't go past 5 o'clock, apparently this is going to go on for 2 or 3 days, the way it is going now and we will adjourn at 5 o'clock and come back at 8 o'clock. You can finish with Mr. Fabricious if it should go past 5, 15 minutes or so.

[173] MR. WALTON: I see, thank you. I'll advise the chair.

MR. CASEY: Alright, thank you, if you will. Proceed Mr. Walton.

MR. WALTON: Now, Mr. Fabricious, perhaps now you can tell us as the author of this regulation, assuming it is a regulation, does 7 take precedence over 9, or does it take precedance over 7. Which is it? Is it? Is it unethical to go to the Board without first going to the Superintendent, or is it unethical - or is it ethical to do so? In your opinion, as the author of this regulation?

MR. FABRICIOUS: I would consider inasmuch as the regulation is couched in such terms, that it should go to the Superintendent first, but I don't believe that any regulations should be made without they could not be sanctions without a certain relaxing of it, for instances as I may, to mean before - a notification of a personal appearance of a group before the Board in which I was present, I personally would not feel that that had been a violation - it would not be very severe now, that's a personal opinion of mine sir, and I'm not speaking for the Board or anyone else's interpretation of this.

MR. WALTON: I appreciate that. In other words, your personal opinion is that regulations are not necessarily to be obeyed?

MR. FABRICIOUS: I didn't say that. I didn't say that - I didn't say that at all.

MR. WALTON: Isn't it your opinion that regulations can be disregarded on occasions?

MR. FABRICIOUS; I believe that we have to be human.

MR. WALTON: Regulations can be disregarded on occasions?

MR. FABRICIOUS: I didn't say disregarded, no.

MR. WALTON: Well, what – I'm sorry, I don't understand you. What were you saying?

MR. FABRICIOUS: I fail to understand you too, now.

MR. WALTON: Well, will you please explain to me is it your opinion that if paragraph 7 is a regulation, that it need not be applied in every instance in which it appears to be applicable?

MR. FABRICIOUS: I would say as I have stated before, if there was a complaint, and if it came before the Board and Superintendent at once, I as an individual would not feel that there had been enough of a violation of the regulations here to make it of any real importance.

MR. WALTON: Very well. Now, what if the complaint is in the form of a document, and if the Superintendent is in one end of the hall, and the Board is at the other end, and you both get the document at the same time, would that constitute a violation of paragraph 7?

MR. FABRICIOUS: I would say that a personal appearance of the persons would be considerably different than a document.

MR. WALTON: So it would be a violation of regulatons if both parties got a [174] document at the same time but it wouldn't if they were both in the same room at the same time, is that it?

MR. FABRICIOUS: I can't see how they could both get a document at the same time.

MR. WALTON: They might both get a copy of a letter?

MR. FABRICIOUS: They might.

MR. WALTON: They might get a mimeographed copy of an open letter.

MR. FABRICIOUS: They might.

MR. WALTON: Would that be a violation of the regulations?

MR. FABRICIOUS: A ~~memeographed~~ copy of the open letter?

MR. WALTON: Received simultaneously in different geographic locations?

MR. FABRICIOUS: Well, it would be hard to prove that they both got it simultaneously, in fact, the open letter, I wouldn't say - I wouldn't class it as a communication.

MR. WALTON: It's a grievance, isn't it?

MR. FABRICIOUS: I wouldn't class it as a communication to me as Superintendent - an open letter sent through the mails such as now here, I wouldn't call that a communication, at all.

MR. WALTON: It was handed to you, wasn't it?

MR. FABRICIOUS: No, it was not.

MR. WALTON: Wasn't it handed to you by Mr. Watts?

MR. FABRICIOUS: If Mr. Watts said that he is not telling the truth - he never did hand me one personally.

MR WALTON: In the presence of Mr. Frampton?

MR. FABRICIOUS: No, not to my knowledge, he didn't.

MR. WALTON: It's possible, isn't it?

MR. FABRICIOUS: Well, anything is possible, yes.

MR. WALTON: And therefore if he testified thusly, it would not necessarily be false, would it?

MR. FABRICIOUS: Not necessarily, no.

MR. WALTON: You wouldn't be prepared to say he was committing perjury, would you?

MR. FABRICIOUS: I would be prepared to say that I don't recall that that document was ever handed to me in the presence of Mr. Frampton.

[175] MR. WALTON: If it were handed to you and to the Board simultaneously, would it constitute a violation of this alleged regulation?

MR. FABRICIOUS: Yes, because an open letter which was sent to 500 people of the community wouldn't consider it as a communication to me.

MR. WALTON: Is there anything in this alleged regulations which prohibits a teacher from sending to members of the community at large?

MR. FABRICIOUS: I would say the matter of intent there would be something to consider - I don't think - the regulations have nothing to say about sending out to the public - it's a matter of intent and content.

MR. WALTON: In other words, there is nothing wrong, is there, with a teacher sending a copy of a communication to the public at large?

MR. FABRICIOUS: Depending on what's in the communication.

MR. WALTON: Let's take the open letter, Exhibit 7. Is the fact that was delivered to the members of the community at large a violation of any regulation?

MR. FABRICIOUS: I would say it certainly was a violation of what we consider right and wrong among any group of faculty members.

MR. WALTON: Is it a violation of any regulation of Exhibit 12?

MR. FABRICIOUS: Inasmuch as it was considered a complaint, I would say yes.

MR. WALTON: And which regulation is it a violation of, to send such a copy to members of the public at large - which regulation?

MR. FABRICIOUS: Let's take 7 - I think would cover it.

MR WALTON: All right. Does 7 state expressly that a grievance cannot be communicated to the public at large?

MR. FABRICIOUS: It doesn't say that specifically, no.

MR. WALTON: And you think it's implied in 7?

MR. FABRICIOUS: I would say that inasmuch as it was aimed at certain individuals, it would imply that, yes.

MR. WALTON: 7 would imply that?

MR. FABRICIOUS: I think so.

MR. WALTON: Thank you. I believe the chair wishes to adjourn.

CHAIRMAN CASEY: We will adjourn until 8:00 PM. (Time was 5:00 P.M.)

MR. WALTON: May we present, Mr. Chairman?

CHAIRMAN CHASEY: Yes, proceed, Mr. Walton, excuse me.

MR. WALTON: I believe Mr. Fabricious, that your last question which was posed to you, was does paragraph 7 of the supposed regulations prohibit the [176] circulation by teachers of grievances or complaints to the public at large, and if I recall your answer was "yes, it does imply", have I correctly stated your answer, sir?

MR. FABRICIOUS: I don't just recall - let's have the question again?

MR. WALTON: I asked you sir - perhaps Mr. Fabricious would like to have a copy of the regulations - supposedly regulations?

MR. BURR: Would you look at your copy and see if it's the Exhibit?

MR. WALTON: I don't know sir, perhaps you can tell me.

MR. BURR: It would be marked in the corner, if it is.

MR. FABRICIOUS: Now your question?

MR. WALTON: Yes sir, I direct your attention to the bottom of page 3, paragraph 7.

MR. FABRICIOUS: I would say that employees of the school that that would - it would be completely out of line for them to distribute to the community a bill of particulars, such as they did.

MR. WALTON: I see - even after such grievances or complaints had been submitted through a Superintendent to a School Board, would it still be improper for such teachers?

MR. FABRICIOUS: I think it would be improper to distribute it throughout a community at any time.

MR. WALTON: Do you think that's prohibited in the supposed regulations?

MR. FABRICIOUS: I'd say - I'm speaking of the regulations - I say if they're employed by a School Board that it would be improper for them to distribute such as that about the community for any motives that they might conceive from it, yes.

MR. WALTON: There is no expressed prohibition of such conduct, is there, in the regulations?

MR. FABRICIOUS: You wouldn't need to have an expressed prohibition.

MR. WALTON: I see. That's one of the regulations that you feel they are bound to guard, even though the school board doesn't adopt, is that it?

MR. FABRICIOUS: The School Board has adopted it.

MR. WALTON: A regulation prohibiting public communication by teachers of complaints?

MR. FABRICIOUS: No, I say this - I'm speaking of this - in my own mind it's adopted by the Board and I believe that's what they should go by.

MR. WALTON: Yes sir - but I say there is no expressed prohibition, is there, in any regulations against teachers communicating to the public their grievances against a school board or a superintendent?

[177] MR. FABRICIOUS: I would say that the grievances should be carried through the proper channels just as it is expressed here and no other way.

MR. WALTON: And I take it that is the best answer you can give to my question.

MR. FABRICIOUS: That is a complete answer.

MR. WALTON: Very well. As you know sir, the length of the teachers contracts which were entered into between the School Board and the Appellants?

MR. FABRICIOUS: I believe their contracts state 180 teaching days, if I'm not mistaken.

MR. WALTON: Yes sir and do you recall, or do you know on what day the 180th day falls in 1959?

MR. FABRICIOUS: Off hand, I can't say, no.

MR. WALTON: If I were to tell you it fell on May 15, 1959, would you have any room to dispute that?

MR. FABRICIOUS: I would say it would be within a few days one way or the other.

MR. WALTON: Yes, I take it that you or the Board does have possession of the contracts entered into between appellants?

MR. FABRICIOUS: Definitely.

MR. WALTON: Assuming that the contract period did end on May 15, 1959, then sir, I ask you, would the appellants be bound to observe any provision in these supposed regulations?

MR. FABRICIOUS: They would in my mind, yes.

MR. WALTON: Even though their contract period had ended?

MR. FABRICIOUS: In many respects they are trying to convey to the group that they have a continuing contract - that has been their claim. Now I'm going on an assumption, that if they had such a thing as a continuing contract then certainly the contract would have obligations on both parties.

MR. WALTON: Well, let me explain, what I think is their position. I believe you will find that their position is that their contract period is for 180 days and by virtue of the Tenure Law, they have an automatic right of renewal of the contract commencing the following fall. Now, under that assumption, sir, would they be bound by any provisions of such contract after the 180th day?

MR. FABRICIOUS: I believe that if there is anything that can be considered in any way detrimental to the school or to them as a teacher in the school, or to anyone else concerning the school, that they would be bound.

MR. WALTON: I see. And would you say that the same obligation falls upon any other citizen in the community?

[178] MR. FABRICIOUS: You mean any other citizen employed by the school? This is only as far as the teachers are concerned, we're speaking of.

MR. WALTON: And you believe that regulations in Exhibit 12 apply to teachers even in the month of August?

MR. FABRICIOUS: I definitely do, yes.

MR. WALTON: Is there anything?

MR. FABRICIOUS: I would say that it's a question of morality and I don't think a teacher, an immoral teacher during the summer has any more excuse for immorality in the summer than they have any time they are teaching. If you want to consider just the acts of immorality.

MR. WALTON: I see. Do you believe, sir, that citizens at large, the average citizen has a right to petition for the recall of a public official?

MR. FABRICIOUS: Not if that official is employed by the official group, no.

MR. WALTON: And you feel therefore that teachers do not enjoy all the rights which ordinary citizens otherwise would have with respect to School Board members?

MR. FABRICIOUS: May I make a supposition now? Let me continue the same thing in our State Government?

MR. WALTON: Perhaps you could answer the question, then you may suppose it as you wish.

MR. FABRICIOUS: All right. Let's have the question, again?

MR. WALTON: Do you believe, sir that teachers enjoy fewer rights than the average citizens to question publicly their School Board Members' policies?

MR. FABRICIOUS: Yes, I do.

MR. WALTON: Even during the summer months?

MR. FABRICIOUS: Even during the summer months, if they are continuing in employment.

MR. WALTON: After their 180 day contract has been ended?

MR. FABRICIOUS: And if they are then under contract, yes.

MR. WALTON: Will you tell me, Sir, were the appellants Blue and Watts under contract in the summer of 1959?

MR. FABRICIOUS: They were. They had contracts for the following year, yes.

MR. WALTON: And when did those contracts commence sir?

MR. FABRICIOUS: Actually, as far as the opening of school they commenced something around the first part of September, as far as teaching days is concerned.

MR. WALTON: In other words those contracts weren't applicable or effective until September, were they?

MR. FABRICIOUS: Well, let's consider another little aspect here, if those teachers had carried on acts which would have merited revocation of their certificates it wouldn't have mattered if they were during the teaching year or during the summer - the revocation of certificates could have been carried out just the same.

MR. WALTON: I don't think you understood my question -

MR. FABRICIOUS: Well, I'll give you an answer - it probably won't warrant it, but -

MR. WALTON: No, I'm very interested in your answers, but I'd like also to have the answers to my questions and my question is were the appellants under contract with the Board during the summer, I mean the month of August, 1959?

MR. FABRICIOUS: I would say they are, yes - in this respect.

MR. WALTON: May I just–

MR. BURR: I'll request that the witness be allowed to answer the question, Mr. Walton.

MR. WALTON: Very well - I–

MR. FABRICIOUS: That they hold the Board to a contract, even though they may not be actively employed, they are in a position to hold the Board irrevocably to that contract, during the period, even though they may not be actively engaged, so I feel that on the other hand there is an obligation on the part of the teacher just as well as there is on the part of the Board.

MR. WALTON: Now, the contract, in other words, under which you believe they were operating, would that be the contract which commenced in Sept. 1959, or the contract which ended in May of 1959?

MR. FABRICIOUS: I would say it would be the one coming up for the following year.

MR. WALTON: I see - you feel that the appellants were under contract to the School Board in August of 1959 by virtue of the contract which would literally be effective in Sept. of 1959?

MR. FABRICIOUS: As far as working time is concerned.

MR. WALTON: Yes, would that also

MR. FABRICIOUS: As far as their actions that might merit invalidation of contract I would say, that the summer months wouldn't make any difference.

MR. WALTON: Did I understand you sir, to say that the teachers do have contractual obligations for the month of August by virtue of their contracts which literally commence in the month of September?

MR. FABRICIOUS: By contractual obligation - will you explain what you mean by contractual obligations?

MR. WALTON: I am referring to the obligations which are contained in their contracts with the School Board.

[180] MR. FABRICIOUS: In a sense I feel that they as teachers, even as I said in the summer months, have an

obligation to conduct himself and to be citizens of such a type, that they would merit the confidence of a Board and start employment and pay when school opens.

MR. WALTON: And would this obligation follow by virtue of their contract with the School Board, or by virtue of something else?

MR. FABRICIOUS: Well, I think the fact that they were more or less continuing in employment.

MR. WALTON: And would they be continuing in employment by virtue of the contract which ended in May, 1959, or by virtue of the one which commenced in September of 1959? Which one?

MR. FABRICIOUS: Well, I would say that occurrence, because if they had not wished to remain in contract, they would have had to sever their obligations or responsibilities to the District.

MR. WALTON: All right, I take it then, that we agree that the duties, the contractual duties of teachers in the month of August, are those which are set forth in the contract which commenced in the following September, is that correct?

MR. BURR: I am going to object to the question on the grounds of calling for a legal conclusion which the witness is not qualified to answer.

MR. WALTON: I believe we must ask to replace the tape at this time. Mr. Chairman, Mr. Burr has made an objection, if I may be heard on the objection, I would reply that Mr. Fabricious has testifed that these teachers were, in his opinion, immoral by virtue of violation of some duty and all I'm trying to inquire now is to find out exactly what that duty is which he says they have violated. And I think I'm entitled to ask him. Where did the duty arise which those teachers allegedly violated, and that's all I'm trying to do, and I have nothing further to say on that objection.

CHAIRMAN CASEY: You would like a ruling on that, Mr. Walton?

MR. WALTON: If you please.

CHAIRMAN CASEY: I will sustain the motion.

MR. WALTON: Mr. Fabricious, did I understand you to testify that you never communicate with other school administrators concerning your employees, unless your communication is solicited?

MR. FABRICIOUS: I wouldn't say, never, no. But generally, that's the way it is handled among administrators, but there are times when you may for various reasons communicate with them regarding their or one of your own.

MR. WALTON: I see. I believe that you testified, sir, that you communicated with the School Board or the School Administrator in Saldovia with respect to Mr. Swick.

[181]

Mr. Fabricius: That's right.

Mr. Walton: Could I inquire, sir, when that communication was made.

Mr. Fabricius: Oh, I don't recall - might have been, it might have been June, I don't recall exactly.

Mr. Walton: Well, now, Mr. Swick's position had been declared vacant in May of 1959, had it not?

Mr. Fabricius: I believe, so yes.

Mr. Walton: And was your inquiry to the Seldovia Board subsequent to that announcement?

Mr. Fabricius: I think so.

Mr. Walton: Could I ask sir, why you inquired of the Seldovia School Board concerning Mr. Swick?

Mr. Fabricius: I don't mind telling you what I wrote to them.

Mr. Walton: Please do.

Mr. Fabricius: I wrote to them and I told them that I understood Mr. Swick wrote the city for employment there, and that I had nothing to state regarding his character or anything of that sort, but I thought that they should investigate his activities in previous schools before employing him.

Mr. Walton: I see. Did anyone ask you to write that letter?

Mr. Fabricius: I don't think they did.

Mr. Walton: The School Board?

Mr. Fabricius: I communicated with, not Mr. Poland but somebody from Seldovia who had indicated that Mr. Swick was interested down there.

Mr. Walton: Did anybody from the Seward School Board ask you to write such a letter?

Mr. Fabricius: No.

Mr. Walton: Mr. Swick?

Mr. Fabricius: No.

Mr. Walton: Did anyone from Seldovia ask you for such an inquiry?

Mr. Fabricius: I don't think so.

Mr. Walton: You just voluntarily communicated to Seldovia this thought about Mr. Swick?

Mr. Fabricius: That's right, I did.

[182] Mr. Walton: Now, why did you do that?

Mr. Fabricius: Because I felt that if a teacher in a system was giving that system trouble then any other systems should make their investigation on it and not get in the same fix.

Mr. Walton: I see. And do you undertake such voluntary assistance to other school superintendents?

Mr. Fabricius: Yes, and I would certainly appreciate it if they would do the same.

Mr. Walton: And do you do that by virtue of any regulation, sir, adopted by this School Board?

Mr. Fabricius: Oh, no.

Mr. Walton: That's a self-assumed authority?

Mr. Fabricius: I don't know if you could say it's a self assumed authority. Let's say it's considered a good practice among administrators when teachers are moving about, to let them know about them.

Mr. Walton: Is that a practice that you follow, sir?

Mr. Fabricius: To some extent, yes.

Mr. Walton: And did you follow that practice with respect to the appellants?

Mr. Fabricius: Both of them?

Mr. Walton: Any of them.

Mr. Fabricius: Mr. Swick is the only one I've ever mentioned to anyone.

Mr. Walton: What about Mr. Joe Condor?

Mr. Fabricius: I've never written a word about Joe Condor.

Mr. Walton: Isn't this sort of thing in a profession known as blacklisting?

Mr. Fabricius: No, it is not.

Mr. Walton: What does blacklisting mean?

Mr. Fabricius: Well, blacklisting would be to advise them not to employ.

Mr. Walton: And you don't think that your letter, in effect, was an admonishment not to employ Mr. Swick?

Mr. Fabricius: I don't consider it so.

Mr. Walton: Don't you think it might have been so understood by the persons who read it?

Mr. Fabricius: That's entirely up to them as to how they might understand it.

[183] Mr. Walton: For all practical purposes it might very well have the effect of being black-listing, might it not?

Mr. Fabricius: That would depend on the interpretation.

Mr. Walton: Mr. Fabricius, isn't it possible that it was this very sort of practice which originally created so much conflict between you and the school teachers in this system?

Mr. Fabricius: No, I don't think so at all.

Mr. Walton: I believe earlier in your testimony that you stated the Jan. 1959 faculty meeting was prompted by some trouble that had been had by the administration and the school board with various teachers?

Mr. Fabricius: More or less rumored trouble - let's put it that way.

Mr. Walton: Did you sir, in response to a subpoena earlier served you on you, bring with you the minutes of the Seward School Board meetings from January 1, 1959 to date?

Mr. Fabricius: Yes.

Mr. Walton: Can you furnish the Board with the minutes of the Jan. 13, 1959 regular school board meeting? While the chairman is looking for those minutes, may I ask one further question? Did you also bring with you the personal file of Mr. Swick?

Mr. Fabricius: Yes.

Mr. Walton: Does that file contain a copy of your letter to the Seldovia School Board?

Mr. Fabricius: No.

Mr. Walton: Where is the copy of that letter?

Mr. Fabricius: I haven't the slightest idea.

Mr. Walton: Isn't it customary for you to keep copies of letters that you write to administrators in the course of your duties?

Mr. Fabricius: Some of them, some of them not.

Mr. Walton: Well, this was written in the course of your business as school administrator, wasn't it?

Mr. Fabricius: You might consider it so.

Mr. Walton: Well, would you consider it so?

Mr. Fabricius: You mean as far as administrative duties? I thought it was a personal - not necessarily administrative duties, I feel that [184] superintendents throughout the country -throughout the states should keep each other informed - not as a matter of administrative duties but as a matter of what we feel - information that should be available to us.

Mr. Walton: By virtue of their positions as superintendents.

Mr. Fabricius: . . Because I feel that any teacher coming to me, that if administrators would give me their . . a little background on them, it would be very helpful. I felt that, had the Skagway School Board in the first place, given full information here, there might have been a completely different picture.

Mr. Walton: Were there copies of that letter, sir, when it was originally typed?

Mr. Fabricius: Was there a copy?

Mr. Walton: Uh huh.

Mr. Fabricius: I presume there was.

Mr. Walton: And you don't know what happened to it?

Mr. Fabricius: No. There are many letters I write that I don't keep a copy. You see in writing letters like that, I don't anticipate having to come into something like this.

Mr. Walton: Yes. It's sometimes helpful not to have a copy of such a letter?

Mr. Fabricius: You might, if you wish to construe it that way, but certainly that was not the intent.

Mr. Walton: I didn't mean to put words in your mouth. Have the minutes been located?

Mr. Burr: The Hell you didn't!

Mr. Casey: Yes, Mr. Walton, I have been trying to find a clip.

Mr. Walton: Thank you, I'll wait. Now, Mr. Fabricius, earlier this evening you couldn't remember the names of the teachers whom you considered such troublemakers in 1959. I direct your attention to page 2 of the minutes of the school board meeting of January 13, 1959 and I will read, quote, "Mr. Fabricius and Mr. Casey said that a great deal of the trouble being caused was by gossip in the grade school, that Mrs. Svedlund, Mrs. Hollenbeck, Mr. Richardson and Mrs. Copeland were the worst troublemakers." Does that portion of the minutes correctly reflect what you stated?

Mr. Fabricius: It reflected our feeling at that time but it didn't reflect what we found to be fact later on. In fact, two of these people - I would say that three of them here we could take off of that list after we . . . . that situation. That was Mrs. Hollenbeck, Mr. Richardson and Mrs. Copeland.

Mr. Walton: Why did you, apparently on that occasion, - may I request that these be marked appellants' exhibit 7, thank you sir, and be introduced in evidence? May I inquire sir, why, on that occasion you did think that these four persons were all troublemakers?

Mr. Fabricius: Well, certain amount of talk, certain amount of rumor, etc. and I believe it's certainly a possibility that people can find they've been mistaken, isn't it?

* * *

[209] MRS. HOLLENBECK: I was shocked when I heard that tonight.

MR. WALTON: Did you hear about it before tonight?

MRS. HOLLENBECK: Yes, I had heard it but it was after I had been non-retained, and I just couldn't imagine what in the world he could have said that or the Board would believe any such thing. The Board knew me pretty well, too I thought — not all the people on this Board now, but the ones that used to be here.

MR. WALTON: No further questions.

MR. BURR: No questions.

MR. WALTON: If it please the Board we would like to call Mrs. Beth Muller.

CHAIRMAN CASEY: Mr. Walton, could we have a recess — I'm going to call recess now.

MR. WALTON: Certainly.

Recessed at 9:50 p.m. — reconvened at 10:00 p.m.

MR. CASEY: The meeting will be reconvened will you proceed, Mr. Walton?

MR. WALTON: Thank you sir. Is Mrs. Beth Muller here?

Mrs. Muller, will you please raise your right hand. Do you swear the testimony you are about to give is the whole truth, and nothing but the truth, so help you God?

MRS. MULLER: I do, sir.

MR. WALTON: Will you please be seated. Please state your full name.

MRS. MULLER: Beth Ann Muller.

MR. WALTON: And where do you live?

MRS. MULLER: I live in Forest Acres — it's right out of Seward.

MR. WALTON: And how long have you lived in Seward?

MRS. MULLER: Fifteen years.

MR. WALTON: You're married?

MRS. MULLER: Yes, I am.

MR. WALTON: Do you have a family?

MRS. MULLER: I have three sons — all who have gone to school in the Seward Public School System.

MR. WALTON: Are you acquainted with Mr. Fabricius, ma'am?

MRS. MULLER: Yes, I am.

[210] MR. WALTON: Let me ask you to think back to the Fall of 1958, particularly in October — do you recall having a conversation with Mr. Fabricius in the Grade School at Seward, Alaska?

MRS. MULLER: I had a conversation with Mr. Fabricius, however, it was in the High School. It concerned my son and a son for whom I was guardian, who was going to the Grammar School. I felt that the discipline of these two boys in their classrooms was not all that it should be.

MR. WALTON: May I ask you, did this meeting arise at your request, or Mr. Fabricius?

MRS. MULLER: Oh, it came from my request because I came here to see him.

MR. WALTON: I see. And what happened during this meeting?

MRS. MULLER: I came to ask him if maybe he could go talk with the teacher or view the situation and see if the discipline in this one particular classroom could not be improved on. I had discussed it with the boys, and I had also discussed it with other mothers in that class — in fact I had discussed it with another teacher. So when I came to ask Mr. Fabricius if something could be done, he said, yes he would surely try to do something. He had not yet at this time gone over to the Grammar School, but he would plan to go within a few days.

MR. WALTON: Did anything further take place?

MRS. MULLER: At that time he told me that he knew that the situation was bad and he felt that probably the heads would roll of about 1/3 of the teachers in the school system. He knew that it would not make him popular, but he intended to do it anyway. That he had had to clean up previous school systems and he felt that he could take care of ours too.

MR. WALTON: Did he indicate — did he tell you how he had taken care of previous school systems?

MRS. MULLER: I can't remember whether he did.

MR. WALTON: But, his expression was "that the heads were going to roll"?

MRS. MULLER: That the heads were going to roll.

MR. WALTON: Did the heads roll?

MRS. MULLER: I understand that lots of heads have rolled.

MR. WALTON: No further questions.

MR. BURR: Mrs. Muller — don't rush off. Mr. Fabricius was just shortly in the system at the time that you had this conversation wasn't he?

MRS. MULLER: Yes, he was.

MR. BURR: Were you wholly and altogether satisfied with the school system before his arrival?

[211] MRS. MULLER: I had had no complaints too much — whenever I had a complaint I always managed to have it taken care of. I always was a mother who came to the school system when I wanted help.

MR. BURR: Concerning which teacher were you making inquiry?

MRS. MULLER: It was concerning Mrs. Armstrong.

MR. BURR: Did you know Mr. Blue or Mr. Watts at the time you were talking to Mr. Fabricius?

MRS. MULLER: Yes, I knew them both — my sons had both of them many times.

MR. BURR: Have you ever had occasion to visit either of these gentlemen during their teaching hours in their rooms?

MRS. MULLER: No, I never did.

MR. BURR: Then you have no opinion as to their teaching ability respectively?

MRS. MULLER: First hand knowledge, no. I have had to go by the opinions of my children about school, which was one reason why I had come to Mr. Fabricius about Mrs. Armstrong. The attitude of my children who had Mrs. Armstrong.

MR. BURR: Well, the fact that you complained about Mrs. Armstrong would indicate to me that you had some dissatisfaction with the system that Mr. Fabricius inherited when he came here.

MRS. MULLER: I wasn't speaking of the system, I was speaking of one classroom, sir.

MR. BURR: Well, she was a member, a consistent member of this Seward School Board System, wasn't she?

MRS. MULLER: Yes, she was.

MR. BURR: And you were complaining about her, weren't you?

MRS. MULLER: Yes, I was not complaining, I was asking for help which is some difference — I often think a word to the wise is sufficient.

MR. BURR: The fact that Mr. Fabricius made the statement which you say he did, that there would be some heads roll, could that not be interpreted as meaning that he intended to improve the caliber of the teachers in this system distinguished from arbitrarily and indiscriminately getting rid of teachers?

MRS. MULLER: You interpret that the way you want to, sir.

MR. BURR: Well, did you have any reason to believe otherwise at that time?

MRS. MULLER: At that time, I didn't dwell on the subject, sir.

MR. BURR: Well, in fairness to Mr. Fabricius did you have any reason to believe that he by that statement assuming he meant it?

[212] MRS. MULLER: I felt that he meant it by the tone of his voice.

MR. BURR: Assuming he did say it you have any reason, or did you have any reason at that time to believe that he was going to arbitrarily without any reason or rhyme start chopping heads off of old time and old tenure teachers in the School System at Seward?

MRS. MULLER: I couldn't see why heads would roll of many at that time?

MR. BURR: You were only complaining about one?

MRS. MULLER: Yes, sir.

MR. BURR: Well, were you familiar about the rest of them?

MRS. MULLER: I think I was, sir.

MR. BURR: Did you know each of them and their respective teaching abilities?

MRS. MULLER: Probably as good a first hand knowledge as any mother would know whose sons have gone through the complete system.

MR. BURR: And you base their teaching abilities upon the complaints, or the lack of complaints of your own children?

MRS. MULLER: No, not entirely.

MR. BURR: Would you consider your opinion of the teaching abilities of the teachers in this system superior to that of an educator with 35 years of experience?

MRS. MULLER: Would you repeat that?

MR. BURR: Would you consider your opinion of the teaching abilities or the teaching capacities of each member of this system superior to that of the Superintendent, Mr. Fabricius?

MRS. MULLER: No, if I thought it was, I would have applied for the job myself.

MR. BURR: Yes, and would you not concede that Mr. Fabricius in his experience and in his capacity as Superintendent would be in a better position to evaluate the teachers for whom this system is run and perhaps, under whom the system is run?

MRS. MULLER: He surely should be.

MR. BURR: And if Mr. Fabricius in the exercise of his judgment based upon 35 years of satisfactory service in other systems, sees fit to non-retain teachers, would you have any reason to believe that he is doing it without any reason?

MRS. MULLER: Repeat that again.

MR. BURR: Well, you recognized and concede that Mr. Fabricius has 35 years, or some such a matter as that, in the school system.

MRS. MULLER: Yes.

[213] MR. BURR: In point of fact, I believe, unless challenged, I think he's the oldest teacher experience wise in the State of Alaska. I don't know if you are aware of that? But assuming that he made a decision

that a particular teacher in the Seward School Board System did not measure up to his qualifications, the qualifications that in his experience and the regulations that he's bound by, if he made such a determination would you have any reason to believe that he was in error?

MRS. MULLER: My personal thought was at the time that he might be in error, because as he pointed out he had only been here two months, and in two months maybe he couldn't properly have evaluated all of the teachers. He had not, as he said, yet been to the Grammar School, and how would he know in two months if there were 1/3 of the teachers which should not be retained?

MR. BURR: Mrs. Muller, as a housewife and a mother of children in the Seward School Board System, do you consider that the teachers which constitutes the teaching body of the system, as having a moral responsibility apart from any regulation to support the superintendent of schools?

MR. WALTON: Now, I am going to have to object I think everybody is interested in guarding this hearing — this really goes far beyond the scope of this investigation. What Mrs. Muller's opinions might be about the moral obligations of teachers, really does that have a proper place in this hearing? I object to this line of questioning to this witness.

MR. BURR: This is your witness, Mr. Walton and she was produced for the purpose of eliciting a statement attributed to Mr. Fal ricius, who apparently is on trial as well as your clients. I think we have a right to go into the background of this statement and find out just exactly what it's based on — what her thinking is concerning Mr. Fabricius — she's formed an opinion and I want to know what it is.

MR. WALTON: You're going beyond the scope of direct and her opinion is not inquired. You inquired of her opinion — she gave you an answer, you didn't like it — I don't think you have to impeach her. I asked her only as to facts about a particular conversation period.

MR. BURR: Are you through?

MR. WALTON: Need more be said?

MR. BURR: Do you have any objections?

MR. WALTON: I have raised an objection.

MR. BURR: Well, do you want to restate it so you can get a ruling?

MR. WALTON: Is it necessary, Mr. Chairman?

CHAIRMAN CASEY: Would you like to restate that?

MR. WALTON: Yes, Mr. Chairman.

[214] CHAIRMAN CASEY: No, I wasn't talking to you Mr. Walton, Mr. Burr.

MR. WALTON: Thank you sir. Well, my objection was simply this it was only two fold. Mr. Burr has gone has started to go far beyond the scope of my examination of this witness and he is beginning to now inquire of matters which she is, I think, admittedly not qualified to testify. Namely as to what obligations, what moral obligations teachers in the public school system might have. Now is this — what this witness' opinion might be as to the moral obligations which rests upon teachers in this School System, is not relevant to this controversy. No matter what this witness' opinion is, it will have no bearing on whether or not these appellants were guilty of the crimes charged.

MR. BURR: Oh, let me withdraw the question — I'll save us a little time. Mrs. Muller, do you have any animosity towards Mr. Fabricius at this time?

MRS. MULLER: No sir, I don't.

MR. BURR: Are you satisfied with him as Superintendent of Schools?

MRS. MULLER: With qualifications.

MR. BURR: What qualifications?

MRS. MULLER: I think he's imposed somes rules and regulations, which I think, are over and above what we need. But like you say, he has 35 years of experience and I have had none, so surely he knows better than I.

MR. BURR: So are you willing to concede that the

regulations that he has devised and requested the teachers to adhere to and be bound by are reasonable?

MRS. MULLER: I think that has nothing to do with it — do I have to answer that?

MR. WALTON: I would like to object for the same reason — what Mrs. Muller's opinions about the regulations

MR. BURR. I'll agree. Is Mr. Blue or Mr. Watts, either one of them, particular friends of yours?

MRS. MULLER: No sir.

MR. BURR: That's all I have.

MR. WALTON: No questions.

Mr. Thomas Howell if it please the Board. Mr. Howell, will you please raise your right hand. Do you swear that the testimony you are about to give is the truth, nothing but the truth, so help you God?

MR. HOWELL: I do.

MR. WALTON: Will you please be seated? Will you please state your full name?

[215] MR. HOWELL: Thomas R. Howell.

MR. WALTON: And how do you spell the last name?

MR. HOWELL: H-O-W-E-L-L.

MR. WALTON: We've never before had the pleasure of meeting, have we?

MR. HOWELL: I sat on the Board of the last hearing we had.

MR. WALTON: Oh, were president of, were you a menber of the Board during our April hearing?

MR. HOWELL: I was here during all those meetings — that was a year ago — not this year.

MR. WALTON: I've never spoken to you personnally, have I?

MR. HOWELL: No.

MR. WALTON: Where do you reside, Mr. Howell?

MR. HOWELL: Seward, Alaska.

MR. WALTON: And how long have you lived here?

MR. HOWELL: Twenty-four years, I think.

MR. WALTON: May I inquire what is your occupation?

MR. HOWELL: Assistant postmaster.

MR. WALTON: Were you connected with the school system here in Seward, recently?

MR. HOWELL: I was on the Board for 8 years. I was president for the last 2 years. Last year I hadn't been on the Board, I mean up to that time.

MR. WALTON: When did your last term as school board member cease?

MR. HOWELL: Just after all this trouble started — about last — the next election following it — a year ago.

MR. WALTON: That would have been in August of 1959?

MR. HOWELL: October I think the election comes in.

MR. WALTON: I see — well it was October of 1959 that you ceased being a member of the Board?

MR. HOWELL: Yes, a year ago — a year ago this last election.

MR. WALTON: And you were chairman of the board during the two years ending October, 1959?

MR. HOWELL: That's right.

[216] MR. WALTON: Mr. Howell, do you recall a special meeting of the Seward School Board held on May 28, 1959 at which the Board was present and Mr. James Watts was present?

MR. HOWELL: That's a pretty hard question — we had so many meetings at that time that just picking up one meeting and asking if I was there. I'd like to see the minutes of the Board meeting and kind of refresh my memory otherwise I don't know — it would be kind of hard to remember that one particular date.

MR. WALTON: Yes, in the spring of 1959 there were some negotiations back and forth between the Board and the SDTA and the AFT, was there not?

MR. HOWELL: Well, the first I heard of that union was that general meeting we had just before School was out a year ago — I can't remember the exact date. That was the first time I'd heard of the actual Unions.

MR. WALTON: Who was present at that particular meeting?

MR. HOWELL: That was a meeting held by the School Board and some of the teachers had this — the first I'd heard of it that Mr. Blue was the head of the Union and they had a lawyer from Chicago — that was the first I heard of it.

MR. WALTON: Was that the occasion which the Board considered whether or not to reinstate certain teachers?

MR. HOWELL: Yes it was.

MR. WALTON: That would have been then on May 8th, 1959.

MR. HOWELL: It was just before school was out so it would be about approximately.

MR. WALTON: Do you recall following that meeting that there was another Board meeting in which Mr. James Watts appeared on the behalf of the AFT?

MR. HOWELL: I know he appeared at some meetings — I couldn't recall the exact date, though.

MR. WALTON: Do you recall the meeting in which he did appear, and when he appeared, and the Board was present and Mr. Fabricius was present?

MR. HOWELL: I believe we called a special meeting — I think I called a special meeting at his request — I don't remember the exact date — it could have been that date though.

MR. WALTON: And at that meeting, do you recall that Mr. Watts brought up for consideration the problems pertaining to Jerry Smith, and Bill Swick?

MR. HOWELL: No, I shouldn't swear to that unless it was in the minutes. I think it had been brought up at some meeting, yes, but I don't know what meeting it was at.

[217] MR. WALTON: Do you recall in the course of that meeting, any conversation had between Mr. McRae and Mr. Watts?

MR. HOWELL: No, I'm afraid I don't.

MR. WALTON: Do you recall during the course of that meeting there were conversations between Mr. Fabricius and Mr. Watts?

MR. HOWELL: What took place over a year ago it's pretty hard for me to remember.

MR. WALTON: Have you spoken with Mr. Watts in the last few days?

MR. HOWELL: I think I saw him three or four days ago.

MR. WALTON: And did he then inquire of you whether or not you remembered some conversation which took place at that meeting?

MR. HOWELL: He asked me if I remembered that meeting — I had a hard time remembering exactly which meeting he was talking about.

MR. WALTON: He also asked you if you could remember conversations at that time, didn't he?

MR. HOWELL: He didn't give any definite conversations.

MR. WALTON: Didn't Mr. Watts ask you whether or not Mr. McRae said to him, in words to this effect, Jimmy, you and all your trouble makers should resign so we can organize a good school?

MR. HOWELL: No, I don't.

MR. WALTON: Do you recall Mr. McRae saying any such thing?

MR. HOWELL: No, I don't.

MR. WALTON: Do you recall Mr. Fabricius at that meeting, or at any other meeting, saying anything similar to this — you and your union ought to have your throats cut — ?

MR. HOWELL: No, I'm afraid not.

MR. WALTON: Didn't you advise Mr. Watts within the last few days that you did remember such statements having been made?

MR. HOWELL: No, I don't think so.

MR. WALTON: No further questions.

MR. BURR: No questions.

MR. WALTON: Excuse me, there's just one last question I would like to ask. When this trouble first started, as you stated, did the Seward District Teacher's Association contact the Board?

MR. HOWELL: I think Jimmy was there several times as a representative.

[218] MR. WALTON: And did the Board recognize him as a representative of the SDTA?

MR. HOWELL: That was a meeting held by the School Board and some of the teachers had this — the first I'd heard of it that Mr. Blue was the head of the Union and they had a lawyer from Chicago — that was the first I heard of it.

MR. WALTON: Was that the occasion which the Board considered whether or not to reinstate certain teachers?

MR. HOWELL: Yes it was.

MR. WALTON: That would have been then on May 8th, 1959.

MR. HOWELL: It was just before school was out so it would be about approximately.

MR. WALTON: Do you recall following that meeting that there was another Board meeting in which Mr. James Watts appeared on the behalf of the AFT?

MR. HOWELL: I know he appeared at some meetings — I couldn't recall the exact date, though.

MR. WALTON: Do you recall the meeting in which he did appear, and when he appeared, and the Board was present and Mr. Fabricius was present?

MR. HOWELL: I believe we called a special meeting — I think I called a special meeting at his request — I don't remember the exact date — it could have been that date though.

MR. WALTON: And at that meeting, do you recall that Mr. Watts brought up for consideration the problems pertaining to Jerry Smith, and Bill Swick?

MR. HOWELL: No, I shouldn't swear to that unless it was in the minutes. I think it had been brought up at some meeting, yes, but I don't know what meeting it was at.

[217] MR. WALTON: Do you recall in the course of that meeting, any conversation had between Mr. McRae and Mr. Watts?

MR. HOWELL: No, I'm afraid I don't.

MR. WALTON: Do you recall during the course of that meeting there were conversations between Mr. Fabricius and Mr. Watts?

MR. HOWELL: What took place over a year ago it's pretty hard for me to remember.

MR. WALTON: Have you spoken with Mr. Watts in the last few days?

MR. HOWELL: I think I saw him three or four days ago.

MR. WALTON: And did he then inquire of you whether or not you remembered some conversation which took place at that meeting?

MR. HOWELL: He asked me if I remembered that meeting — I had a hard time remembering exactly which meeting he was talking about.

MR. WALTON: He also asked you if you could remember conversations at that time, didn't he?

MR. HOWELL: He didn't give any definite conversations.

MR. WALTON: Didn't Mr. Watts ask you whether or not Mr. McRae said to him, in words to this effect, Jimmy, you and all your trouble makers should resign so we can organize a good school?

MR. HOWELL: No, I don't.

MR. WALTON: Do you recall Mr. McRae saying any such thing?

MR. HOWELL: No, I don't.

MR. WALTON: Do you recall Mr. Fabricius at that meeting, or at any other meeting, saying anything similar to this — you and your union ought to have your throats cut — ?

MR. HOWELL: No, I'm afraid not.

MR. WALTON: Didn't you advise Mr. Watts within the last few days that you did remember such statements having been made?

MR. HOWELL: No, I don't think so.

MR. WALTON: No further questions.

MR. BURR: No questions.

MR. WALTON: Excuse me, there's just one last question I would like to ask. When this trouble first started, as you stated, did the Seward District Teacher's Association contact the Board?

MR. HOWELL: I think Jimmy was there several times as a representative.

[218] MR. WALTON: And did the Board recognize him as a representative of the SDTA?

MR. HOWELL: No, that depends on what you mean by representative. He did say he represented the teachers and we listened to him, yes.

MR. WALTON: And you recognized him as representative of the teachers?

MR. HOWELL: Yes, I guess you could say that.

MR. WALTON: Didn't you in fact, address some correspondence to him as such?

MR. HOWELL: I can't remember that I ever wrote a letter to him, or not?

MR. WALTON: You did not.

MR. HOWELL: I don't remember any letter written.

MR. WALTON: Do you remember Mr. Watts ever appearing before the Board on behalf of the AFT, American Federation of Teachers?

MR. HOWELL: I know he's appeared there — I guess he must have once or twice. I believe he did.

MR. WALTON: You answer for the record is he did, but you don't remember what the conversation was.

MR. HOWELL: I don't remember what the conversation was.

MR. WALTON: Do you recall whether or not the Board on this occasion, on any of those occasions, ever objected to Mr. Watts appearance, or the appearance of anyone else, without having first contacted Mr. Fabricius?

MR. HOWELL: I don't think they ever told them they couldn't come.

MR. WALTON: You were President of the Board at this time, were you not?

MR. HOWELL: I was president for two years, yes.

MR. WALTON: Did you as president of the Board ever advise Mr. Watts or Mr. Blue that they were in violation of the regulation that required them to direct all their communications first to the Superintendent?

MR. HOWELL: I don't think I ever advised them of that.

MR. WALTON: As a matter of fact, Mr. Howell, were you at that time aware that such a regulation existed or didn't exist?

MR. HOWELL: Well, I had been told that from the last Superintendent also that they were supposed to go directly to him and not to the Board.

MR. WALTON: Did you of your own personal knowledge know whether or not that particular regulation did exist?

MR. HOWELL: Both Superintendents had told me it existed, yes.

[219] MR. WALTON: And that was the extent of your knowledge?

MR. HOWELL: Yes.

MR. WALTON: Is there any particular reason why the appellants were never instructed to conduct themselves in accordance with such a regulation if it did exist?

MR. HOWELL: I think they had the Teacher's deal which explained it, on this here regulation we set up for teachers.

MR. WALTON: Could you explain, Mr. Howell, I don't know what you mean.

MR. HOWELL: You have a regulation here set up by the School Board as to how the teacher was supposed to act and I think it's in there. I saw it in some of your exhibits the other night.

MR. WALTON: Mr. Chairman, may I please have Board's Exhibit — it's letter addressed to Mr. Fabricius signed by Mr. Howell.

Mr. Howell, I would like you to look at the Board's Exhibit #16.

MR. HOWELL: Yes sir.

MR. WALTON: You've read Exhibit 16, have you not?

MR. HOWELL: Yes sir.

MR. WALTON: Now, Mr. Howell, will you please tell the Board, if you remember, what circumstances led up to this letter?

MR. HOWELL: Right now, I couldn't say — I'd have to figure the dates and what happened.

MR. WALTON: This letter is dated January 16, 1959. Do you remember a School Board meeting held on January 13, 1959 at which, according to the

minutes which are copies, some discussion was had of some troublemakers known as Hollenbeck, Svedlund, and others.

MR. HOWELL: I know their names were brought up, yes. I couldn't say the exact date.

MR. WALTON: Do you recall that they were referred to in that meeting as troublemakers as the minutes indicate?

MR. HOWELL: If the minutes indicate, yes.

MR. WALTON: Do you recall who it was who referred to them as troublemakers on that occasion?

MR. HOWELL: I think we took the recommendation of Mr. Frampton, if I remember right.

MR. WALTON: I see. It was Mr. Frampton who referred to those teachers as troublemakers?

MR. HOWELL: I wouldn't swear to that but I think they took his recommendation to the Superintendent.

[220] MR. WALTON: Do you recall upon whose recommendation it was that this particular letter was written — Exhibit 16?

MR. HOWELL: There must have been a discussion at the Board Meeting, I guess.

MR. WALTON: Mr. Fabricius was interested in having this letter written, was he not?

MR. HOWELL: Yes.

MR. WALTON: Why was he?

MR. HOWELL: We talked about it in the Board and we decided — it must be in the minutes that it was authorized.

MR. WALTON: Yes.

MR. HOWELL: I don't think it was my letter particularly, I signed it as a President — it was just a action of the Board.

MR. WALTON: Exactly — correct. You signed the letter because it had to go out under the name of the Board?

MR. HOWELL: That's right.

MR. WALTON: Mr. Fabricius was interested at that time in helping create a discipline among the ranks of the teachers?

MR. HOWELL: We had talked for a long time about

getting some set discipline for the teachers and regulations. It was brought up before Mr. Fabricius was here and we wrote to different school boards in Alaska and we just — I don't think there's a thing in the book that isn't in some other school in Alaska. I mean that was my impression.

MR. WALTON: Did Mr. Fabricius indicate that he felt that there should be some public faculty meeting concerning the questions of discipline?

MR. HOWELL: I don't remember that, sir.

MR. WALTON: Do you remember whether or not the Board told him to have a Faculty Meeting and discuss with the teachers discipline and ethics problems, conduct problems.

MR. HOWELL: Well, we wanted him to tell the teachers what our ideas were, because we made the plans and it was up to the Superintendent and principal to carry it out.

MR. WALTON: And you felt that he adequately accomplished that, did you?

MR. HOWELL: I believe he did.

MR. WALTON: As a matter of fact he had a part in drafting this letter, did he not?

MR. HOWELL: I believe he drafted it.

[221] MR. WALTON: Do you remember where it was drafted?

MR. HOWELL: I presume in the office.

MR. WALTON: In his office?

MR. HOWELL: In the school office — that would be his office, yes.

MR. WALTON: That would be his office?

MR. HOWELL: Right here in the High School.

MR. WALTON: Were did you maintain your office at that time?

MR. HOWELL: You mean an office at school?

MR. WALTON: Yes.

MR. HOWELL: We met in the office here in the High School and we had our Board Meetings here — that's the only office we had — I had no office as president.

MR. WALTON: Your occupation at the time was Postmaster?

MR. HOWELL: Assistant.

MR. WALTON: Now, I understand Mr. Fabricius gave you this letter for your signature?

MR. HOWELL: I presume, so, but I couldn't say for sure, but I imagine that's what happened.

MR. WALTON: And where would that have been — that would have been three days after the meeting, would it not? The letter is dated the 16th and minutes reflect the meeting was held on January 13th.

MR. HOWELL: I don't remember, I might have walked up here and talked to him in the office, I wouldn't say to that.

MR. WALTON: The letter was then presented to you for signature.

MR. HOWELL: Yes.

MR. WALTON: Was it presented by him — or you say you don't know.

MR. HOWELL: It might have been by the Secretary.

MR. WALTON: And who was that?

MR. HOWELL: Mrs. Jeffrey was secretary at the time.

MR. WALTON: Was she on the Board?

MR. HOWELL: No.

[222] MR. WALTON: She wouldn't have had authority to write this letter, would she?

MR. HOWELL: She could have written it as secretary by the author of the Board — the actually writing of it.

MR. WALTON: You mean the typing of it?

MR. HOWELL: Yes.

MR. WALTON: But I mean she wouldn't have had authority to actually compose it?

MR. HOWELL: No.

MR. WALTON: Mr. Fabricius had that authority, didn't he?

MR. HOWELL: I don't think it was his letter — it was the Board's.

MR. WALTON: But I mean as to who — obviously it was the Board — signed Seward School Board by Thomas Howell.

MR. HOWELL: Yes.

MR. WALTON: Who prepared it besides Mr. Fabricius?

MR. HOWELL: It was the action of the Board.

MR. WALTON: But I mean do you know actually who wrote it?

MR. HOWELL: I presume actual writing was the Secretary of the Board.

MR. WALTON: And do you presume that she copied something or wrote something that was dictated to her?

MR. HOWELL: No, I presume the Board made these ideas and told her to write it.

MR. WALTON: And you presume Mr. Fabricius had a part in it?

MR. HOWELL: I think he approved of it.

MR. WALTON: No further questions.

MR. BURR: No questions.

CHAIRMAN CASEY: We will have a 5 minute recess. Recessed at 10:35 PM. Reconvened at 10:50 PM.

The meeting will be reconvened. Mr. Walton, would you proceed, please.

MR. WALTON: Yes. Is Mr. Murl Trevethan here. Would you raise your right hand? Do you swear that the testimony you are about to give will be the truth and nothing but the truth, so help you God.

MR. TREVETHAN: I do.

MR. WALTON: Please be seated. Would you please state your full name?

[223] MR. TREVETHAN: Murl Trevethan.

MR. BURR: I didn't catch the name, sir?

MR. TREVETHAN: T-r-e-v-e-t-h-a-n, M-u-r-l the first name.

MR. WALTON: Were do you reside, sir?

MR. TREVETHAN: Here in Seward.

MR. WALTON: How long have you lived here?

MR. TREVETHAN: Thirty years.

MR. WALTON: And what is your occupation?

MR. TREVETHAN: Foreman for the Seward dock.

MR. WALTON: Did you have any occasion to work with the Fire Department?

MR. TREVETHAN: Yes, I've been on the Seward Fire Service since 1934, since 1942 I've been Fire Chief on the Dock — I belong to both the Dock Department and the Seward Fire Department.

MR. WALTON: Does your work with the Seward Fire Department consist of a voluntary nature or is it on a monetary basis?

MR. TREVETHAN: Voluntary. I'm a volunteer uptown in the Seward Fire Department and I get a small token payment — we're only classed as a volunteer in the Dock department, also.

MR. WALTON: Who is the Fire Chief in Seward?

MR. TREVETHAN: It is now Oscar Watsjold.

MR. WALTON: Who was the Fire Chief in 1959?

MR. TREVETHAN: Fred Kielcheski — now retired.

MR. WALTON: Were you acquainted with a gentleman named Jesse Moore?

MR. TREVETHAN: Yes, he was a janitor at the Grade School — I guess it was the Grade School.

MR. WALTON: In the course of your duties as volunteer fire inspector, did you have any occasion to contact Jesse Moore?

MR. TREVETHAN: The day that we made what we call our first fire inspection in, possibly a year or a couple of years, — what brought it on was The Lady of Our Angels Fire in Chicago — the school where about 90 children were lost — 96 or something like that. The Fire Service throughout the U.S. admonished all Fire Departments to immediately inspect schools with the idea of eradicating any hazards — eliminating fire hazards to try to avoid a reoccurrence of another bad school fire. So, soon after that we went up to the School on an inspection tour. I don't recall now whether we — I believe we called a Fire Drill and had the pupils leave the room, and also went on an inspection tour of the school.

[224] MR. WALTON: And were the scope of Jesse Moore's duties as janitor discussed with Mr. Kielcheski?

MR. TREVETHAN: Yes, as we went around, the

janitor was showing us around, Jesse Moore — I guess his proper title was janitor — I believe that's correct. He was right with us and I was right alongside of Kielcheski there were about 5 or 6 firemen, Mr. Kielcheski, myself, and at least 4 others, and what you want to know is the discussion?

MR. WALTON: With respect to between Mr. Kielcheski and Mr. Moore with respect to his duties.

MR. TREVETHAN: Well, we saw several hazards — a cord across the floor running into an icebox, which could be scuffed up and any electric cord any time it becomes faulty can cause a fire and rubber will burn a short circuit and it will burn to the wall and cause a fire. That was one of the first things that Mr. Kielcheski told him he should get rid of and he said that should he run in solid conduit and Mr. Moore said that the Superintendent had advised him to do it. Kielcheski said, don't you do it. Well, he said the Superintendent wants me to do it.

MR. WALTON: By Superintendent you mean Mr. Fabricius?

MR. TREVETHAN: Mr. Fabricius. Kielcheski said, don't you touch any electrical work — that has to only be done by a qualified electrician — it's a fire hazard if it's done any other way. It has to be done by a qualified electrician. Mr. Moore said, well, he wants me to do electrical work and he wants me to do furnace work. And Mr. Kielcheski said I feel — and Mr. Moore said I feel I'm not qualified to do either one — it had to be done by qualified men — a furnace man or an electrician.

MR. WALTON: Did this create any kind of a conflict to your knowledge?

MR. TREVENTHAN: Well, Mr. Moore said it just about means my job. He said, I believe at that time he said he's asking me to sign some kind of work contract that he would do that work — willing to do that work or that he would do that work. And Mr. Kielcheski told him not to do that work. I don't recall whether he told him anything about signing his contract but it seemed that Jesse Moore was very much afraid that

his job was in jeopardy if he didn't do the work and the Fire Chief forbid him to do the work.

MR. WALTON: Did you thereafter have occasion to be present with Mr. Fabricius and Fire Chief Kielcheski in any way connected with this matter?

MR. TREVETHAN: We were at the school once more and they had a discussion at the Fire Hall that I overheard.

MR. WALTON: What was that — between who?

MR. TREVETHAN: Between Mr. Fabricius and Mr. Kielcheski.

MR. WALTON: What did that concern?

[225] MR. TREVETHAN: Well, I stepped into the room — they were talking, Mr. Fabricius was talking and Mr. Kielcheski was answering a little bit. The gist of the conversation was that Mr. Fabricius said, those are only rumors, they're just rumors — that's what they are, they're just rumors. He said, I didn't say those things that I don't know where they're coming from — they're just rumors. Well, he said, I do know where they're coming from — they're coming from the school, that's where they're coming from. Well, he said, they're coming from the teachers, that's where they're coming from, they're coming from the teachers. And I think Mr. Kielcheski probably grunted an answer — he at least made a noise and then Mr. Fabricius added, well, I had about the same thing down at Wrangell — he said, I had to clean out about 80% of them to clear it up and he said, it looks like I'm going to have to do the same thing here.

MR. WALTON: This conversation was held about the middle of May, 1959?

MR. TREVETHAN: I would guess then. The conversation is correct, the date might be a little off — I made no effort to keep track of the date but I clearly remember the conversation.

MR. WALTON: Now, when Mr. Fabricius was protesting that these were all rumors descending by the teachers, do you know what he was referring to — rumors of what?

MR. TREVETHAN: Well, I blew the lid off of things at a Fire Meeting one night after letting it go for about three months when this school business has got so I guess all clubs discuss it, most any place they have a meeting about half the time it seems we all wind up in a school fight. We had that a couple of times at the Fire Hall.

MR. WALTON: What was it that Mr. Fabricius was saying was not his, but something the teachers had said?

MR. TREVETHAN: Well, what blew the lid off the fire meeting was I said to Kielcheski, well I understand Fabricius made the remark that you were a pompous old fool and that you better not come back up there any more. And Kielcheski flew out of his seat with his arms in the air and he said, we'll go, tomorrow. He and I did go back up the next day and I think another day or two.

MR. WALTON: And was this what Mr. Fabricius was protesting that he had not said?

MR. TREVETHAN: Then, I think it was probably a few days later I overheard this conversation in the Fire Hall between Mr. Fabricius and Mr. Kielcheski.

MR. WALTON: No further questions.

MR. BURR: Who is this Mr. Kielcheski?

MR. TREVETHAN: Seward Fire Chief.

MR. BURR: What is your present occupation?

MR. TREVETHAN: Foreman on the dock.

[226] MR. BURR: You don't know the substance of the conversation that you overheard between Mr. Fabricius and Kielcheski, do you?

MR. TREVETHAN: What I just stated.

MR. BURR: Do you know what they were talking about — what these rumors were or anything of that nature?

MR. TREVETHAN: Rumors of what Mr. Fabricius had said concerning Mr. Kielcheski.

MR. BURR: Did you just happen on to the scene and overhear these people?

MR. TREVETHAN: Yes.

MR. BURR: Were you eavesdropping on the conversation?

MR. TREVETHAN: No, I went in to see Mr. Kielcheski — I recall also because Fred made a remark about it — what I went in to see him about was the Bureau of Education at various times has sponsored fire training programs — especially the last two, three years. And, while Mr. Fabricius was there, before he had left, I mentioned something concerning fire education program or the training that the Bureau of Education was putting on. After Mr. Fabricius left, Fred said to me, did you notice Mr. Fabricius really perked up his ears when you mentioned the Bureau of Education? He said, he really came to life when you mentioned that.

MR. BURR: I take it from your testimony you don't like Mr. Fabricius very well?

MR. TREVETHAN: He has done me no harm.

MR. BURR: Are you intending to do him any harm with your testimony?

MR. TREVETHAN: No, I'm merely stating truth and facts.

MR. BURR: Who solicited your testimony tonight, Mr. Trevethan?

MR. WALTON: Objection to the question.

MR. BURR: Who contacted you to appear at this hearing?

MR. TREVETHAN: During a discussion I happened to run into Mr. Watts about a week ago and he mentioned there was a hearing, he said, you might be asked to testify, maybe you wouldn't like to, what you've heard. I said, it doesn't make a bit of difference with me I'm willing to testify what I've heard.

MR. BURR: Now, who did you first tell what you heard to?

MR. TREVETHAN: This conversation that I've just repeated? Well, I told three members of the School Board, Mr. Casey, Mr. McRae, and Mr. Howell.

MR. BURR: Was that in the nature of a complaint about which you'd heard?

MR. TREVETHAN: Just a conversation that I heard. But the thing that impressed me [227] that

80% of the teachers in Wrangell being cleaned out and probably 80% of them here being cleaned out and I don't believe you have to clean out 80% of anybody, anyplace to clean anything out. It hasn't been my experience in the work on the Dock.

MR. BURR: You think that 80% of nothing can be undesirable then?

MR. TREVETHAN: What do you call nothing — the personnel?

MR. BURR: Well, let me say this, 80% of the personnel of any group in your opinion could not in any circumstances be undesirable, for any reason?

MR. TREVETHAN: Well, I wouldn't say for any reason, but I've never seen any group in my lifetime that you had to get rid of 80% of them to straighten anything out.

MR. BURR: You're not prepared to say that this within the realm of possibility, are you, Mr. Trevethan?

At the time that you overhead this conversation, Mr. Trevethan, did you know how long Mr. Fabricius had been in Wrangell? If I told you he was there 10 or 15 years, would that make any difference in the statement you heard him say and what it meant to you?

MR. TREVETHAN: I understand he was there 25 years.

MR. BURR: Well, in 25 years would you consider it unusual to have 80% turnover in your personnel?

MR. TREVETHAN: Possibly any place would have that much turnover in that length of time.

MR. BURR: Well, it's not such a shock to your conscience to have 80% turnover during his tenure in Wrangell — 25 years, is it?

MR. TREVETHAN: I didn't take it that way when he said he had to clean out 80% of them to clean up a certain issue, I don't think that any issues you have to clean up would run 25 years.

MR. BURR: What issue was he talking about?

MR. TREVETHAN: He didn't mention — just that he cleaned out about of 80% in Wrangell.

MR. BURR: Did you take the trouble to ask him what the issue was before you talked this matter over with three members of the Board?

MR. TREVETHAN: I asked him no question whatsoever.

MR. BURR: Yet, you saw fit to peddle this rumor that you heard to three members of the Board in an effort to spread more difficulty.

MR. TREVETHAN: I didn't peddle it, I just told them what I heard him say. Casey, looked me in the eye and said, I don't believe you.

MR. BURR: At this point, do you have any knowledge, even yet, as to what the trobule was?

[228] MR. TREVETHAN: No. Possibly, the same as about here.

MR. BURR: Well, what's the trouble, here, Mr. Trevethan?

MR. TREVETHAN: I don't know, except that this town seems to be torn apart.

MR. BURR: Do you have any answer to the solution — or any solution to the problem?

MR. TREVETHAN: Well, I'm sure there's a solution. The trouble's all been the last couple of years.

MR. BURR: You had no trouble prior to that?

MR. TREVETHAN: Not that I know of — there could have been trouble that I didn't know about. But I didn't hear of anything — I had three children graduate from school — I have one in high school, I have two in Grade School.

MR. BURR: I have no further questions.

MR. WALTON: Mr. Trevethan, you say all the trouble occurred in the last couple of years?

MR. TREVETHAN: All the trouble that I know anything about with the school.

MR. WALTON: You're talking about trouble in the School System?

MR. TREVETHAN: Yes.

MR. WALTON: And all that had occurred during and since Mr. Fabricius advant on the scene?

MR. TREVETHAN: If there was any other trouble before he came, then I didn't hear of it, I didn't know

of any. I attended school affairs, I had children in school.

MR. WALTON: But certainly not the sort of trouble that tears the town apart as it now is?

MR. TREVETHAN: That's what I was referring to, yes.

MR. WALTON: No further questions.

MR. BURR: No questions.

CHAIRMAN CASEY: For the record I wish to note that the hour is approximately 11:00 PM and the Board has been in session since 10 o'clock this morning, therefore this case is hereby recessed until Friday the 12th (note — Friday is the 11th) day of November, 1960, at the hour of 7:30 PM in this room. Recessed.

* * *

[256] MR. WALTON: Be seated. Will you state your full name.

MR. SWICK: William A. Swick.

MR. WALTON: Where do you live, Mr. Swick?

MR. SWICK: In Seward.

MR. WALTON: Do you have a family?

MR. SWICK: I do.

MR. WALTON: What does your family consist of?

MR. SWICK: One wife and six children.

MR. WALTON: Mr. Swick, what is your occupation?

MR. SWICK: I'm presently unemployed.

MR. WALTON: Have you been trained to pursue any occupation?

MR. SWICK: Yes, sir.

MR. WALTON: What occupation?

MR. SWICK: The occupation of teaching.

MR. WALTON: What has your training and educational background been?

MR. SWICK: I have a Bachelor of Arts in Allegheny College, 1948, Master of Science in Education, Syracuse University, 1955.

MR. WALTON: Have you taken any further educational credits?

MR. SWICK: Yes, sir. I have twelve graduate hours beyond my Masters.

MR. WALTON: Where were those taken sir?

MR. SWICK: At Syracuse.

MR. WALTON: In what subject?

[257] MR. SWICK: In Educational Administration.

MR. WALTON: And what was your Master's Degree in?

MR. SWICK: It was in Audio-Visual Education and later, since I had an excess of hours in Administration.

MR. WALTON: How long have you lived in Alaska, Mr. Swick?

MR. SWICK: Ten years.

MR. WALTON: And did you pursue the occupation of teaching in the States before you came to Alaska?

MR. SWICK: No, I did not.

MR. WALTON: Have you been a teacher in Alaska?

MR. SWICK: Yes, I have.

MR. WALTON: Will you please tell the Board where you've taught and for what periods of times?

MR. SWICK: Yes. I taught in Skagway from 1950 to 1957 and in Seward from 1957 to 1959.

MR. WALTON: I'd like to get one thing cleared up right now. I believe that there is a letter introduced by the Board from someone in Skagway pertaining to Mr. Swick. May I please see it? Let me hand you the Board's Exhibit No. 15 — would you like to read it, or have you ever read it before?

MR. SWICK: Very briefly the other night when it was entered, Mr. Walton.

MR. WALTON: I don't think it bears a signature, does it?

MR. SWICK: It's a reproduction of a signature, apparently.

MR. WALTON: Would you like to comment on that letter or not, at this time?

MR. SWICK: At your pleasure.

MR. WALTON: It says in this letter — or what appears to be a copy of a letter, it states that the author states that he has heard that Mr. Swick left Skag-

way as he felt he should be advanced the position of Superintendent. Any comment Mr. Swick?

MR. SWICK: I never did apply for the position of Superintendent.

MR. WALTON: Why did you leave Skagway?

MR. SWICK: There were several reasons. I thought I had reached a professional plateau after 7 years, my son was ready to enter High School I wanted him to be in a larger school; I wanted to be in a larger school where I had more material to work with musically — there were several reasons.

[258] MR. WALTON: I believe that this letter states also that Mr. Swick did foster a dissention among the faculty in Skagway. That at one time he tried to form a teacher's union. Any comment, Mr. Swick?

MR. SWICK: To my knowledge that term never was used in Skagway.

MR. WALTON: Which term?

MR. SWICK: Teacher's Union.

MR. WALTON: Did you engage in the formation of any Teacher's Association.

MR. SWICK: No, sir. There was an association in existence. It was a local counterpart of the NEA, to which I was elected president and remained in that position for the 7 years I was there.

MR. WALTON: Were you a charter member of that local?

MR. SWICK; No, sir, it was in existence when I arrived.

MR. WALTON; Do you know sir how this letter — if it is a copy of a letter — do you know how it originally ever happened to be written by this Mr. Fairbanks?

MR. SWICK: Yes, sir. I have reason to believe that Mr. Fabricius solicited that letter.

MR. WALTON: As a matter of fact he so testified, did he not?

MR. SWICK: I believe so.

MR. WALTON: Do you know whether or not he solicited letters concerning you from other people in Skagway?

MR. SWICK: I'm quite sure he did.

MR. WALTON: Do you have any reason to say that?

MR. SWICK: Yes, I do.

MR. WALTON: What is the reason?

MR. SWICK: I have received communications from former colleague which so informed me.

MR. WALTON: And that person is?

MR. SWICK: Deb Armstrong.

MR. WALTON: Do you know sir whether any other letters concerning your qualifications as a teacher and as a person have ever come to the attention of the Seward School Board.

MR. SWICK: Well, if the mails operated properly, they did sir.

MR. WALTON: Why do you say that?

MR. SWICK: I have reason to believe that the original of three copies which I hold now were mailed to Mr. Tom Howell, the president of the [259] Board, or merely to that title President of the Board.

MR. WALTON: A moment ago you mentioned a ~~Der~~ Armstrong and I now hand you a document which bears the day of May 30, 1959, signed Deb, addressed Dear Bill and Dorothy. I ask you if this is the letter to which you made reference just a moment ago.

MR. SWICK: Yes, it is.

MR. WALTON: May this please be marked Appellants Exhibit. May this also be marked, I don't know the numbers.

May this be marked Appellants Exhibit 11 and 12.

Now, Mr. Swick, you say you believe that the Board may have received originals of other letters. Would you say that as to Appellant's Exhibit 11 which I now hand you. Will you please identify it.

MR. SWICK: Yes this is a letter from the Rt. Rev. Magr. G. Edgar Gallant, Superintendent of the Pius-X Mission School in Skagway, Alaska at that time.

MR. WALTON: During what period?

MR. SWICK: June 26, 1959.

MR. WALTON: Addressed to whom?

MR. SWICK: The President, Seward, Public School Board, Seward, Alaska.

MR. WALTON: Concerning generally what?

MR. SWICK: Oh, the integrity of Mr. William Swick and his experience as a High School Teacher and so forth.

MR. WALTON: Thank you sir. I ask you please identify Appellant's Exhibit 12.

MR. SWICK: This is a letter signed by L. T. McGuane, Clerk of the Skagway School Board, dated May 16, 1957 and addressed to Mr. William Swick.

MR. WALTON; I thank you sir. Will you please identify Appellant's Exhibit 13.

MR. SWICK: This one while it bears no signature is a copy of a letter from James W. Burden, Assistant Manager and Cashier of the Bank of Alaska at Skagway.

MR. WALTON: Addressed to whom?

MR. SWICK: Addressed to Mr. Tom Howell, Presdent of the School Board.

MR. WALTON: Concerning generally what?

MR. SWICK: Oh my character and integrity.

MR. BURR: Mr. Walton, I have no objections to you just offering the exhibits.

MR. WALTON: I just like to have them identified for the record. Please [260] identify Exhibit 14.

MR. SWICK: This one again is not signed but typed, Ethel Herr Villesvik, wife of Mr. George S. Villesvik, from Skagway, Alaska and addressed to Mr. Thomas Howell, President, Seward School Board, dated June 10, 1959.

MR. WALTON: Concerning generally?

MR. SWICK: Same topics.

MR. WALTON: I presume Mr. Casey that these appear to be copies of originals sent to the Board, I presume that the Board has them and I'm surprised that the Board hasn't introduced these along with Exhibit — Board's Exhibit 15. And in the course of

your teaching experience, Mr. Swick, have you generally taught one or more subjects in particular?

MR. SWICK: Yes, sir.. I split my time between English and History in the High School and music in Skagway, specifically Band.

MR. WALTON: And I believe you have testified that you entered into a contract with the Seward School Board for the school year 58-59?

MR. SWICK: That is correct.

MR. WALTON: And during that school year, sir, did you teach one or more subjects in particular?

MR. SWICK: No, I was what they called the Music Teacher and I taught general music in the Grade School and Band and Chorus for the High School.

CHAIRMAN CASEY: Excuse me, Mr. Swick, will you turn this way just a little, please, the Board can't hear you.

MR. WALTON: Mr. Casey while I am talking perhaps someone could locate the employment contract for the year 58-59 for Mr. Swick. This might be an appropriate time for us to mark it. May that be marked, Mr. Casey, with the appropriate number as Appellant's Exhibit — Number 15.

And during your service in Seward Mr. Swick as a teacher, did you belong to any teacher's associations?

MR. SWICK: I did.

MR. WALTON: Which one?

MR. SWICK: I joined the Seward District Teacher's Association, the NEA affiliate.

MR. WALTON: When?

MR. SWICK: I believe both years I was actively employed - 57 first.

MR. WALTON: School year of 57-58 and school year of 58-59?

MR. SWICK: That's correct.

[261] MR. WALTON: I see. And the other association?

MR. SWICK: The American Federation of Teachers.

MR. WALTON: And when did you join that, sir?

MR. SWICK: That became effective May 4, 1959.

MR. WALTON: And were you a charter member?

MR. SWICK: I was.

MR. WALTON: Did you hold an office in that group?

MR. SWICK: I did.

MR. WALTON: Did you hold an office in the SDTA?

MR. SWICK: Not as office — I served on a committee.

MR. WALTON: Which committe was that?

MR. SWICK: That was the committee commonly known now as the Grievance Committee.

MR. WALTON: I see that was the committee in which the other members were.

MR. SWICK: Mr. Watts, Mrs. Copeland and Mrs. Wininghhoff.

MR. WALTON: You have heard the testimony previously elecited at this hearing, have you not?

MR. SWICK: Yes, I have.

MR. WALTON: And you are acquainted with the Board's Exhibit 7, the Open Letter?

MR. SWICK: Yes, I am.

MR. WALTON: That exhibit bears the date May 18, does it not, and appears to be signed by Seward Local, American Federation of Teachers?

MR. SWICK: I believe that's right.

MR. WALTON: In this case the Appellants have been charged with printing and distributing and misleading statement, therefore Mr. Swick, I am going to ask you to consider questions about Exhibit 7 with respect to statements therein contained, specifically with respect to their truth or their distortion or their misleading character. Let me ask you first though, did you participate in any way in the drafting of the Board's Exhibit 7?

MR. SWICK: Yes.

[262] MR. WALTON: Did you assist in any way in the circulation of the Board's Exhibit 7?

MR. SWICK: I did.

MR. WALTON: Off hand, do you recall whether or not any non-teachers assisted in the distribution?

MR. SWICK: It was primarily a union activity,

there may have been some casual help from friends. I don't know. Of a clerical nature.

MR. WALTON: All right. I direct your attention to page 2 of the Board's Exhibit 7 — the second paragraph following paragraph 2, wherein it states "We the Seward Local of the American Federation of Teachers have made every effort to secure correction of illegal unethical and unfair acts in the associates, therefore if the School Board knew of them, it would take corrective action." Now, would you please advise the Board whether or not that statement is misleading, distorting or false?

MR. BURR; Objection calls for a conclusion. Objection calls for conclusion.

MR. WALTON: Does Mr. Casey wish argument on this point?

MR. BURR: Go ahead and answer it I have no objection.

MR. WALTON: Is there anything false about that statement, Mr. Swick.

MR. SWICK: Not within my knowledge, no.

MR. WALTON: Will you please advise the Board what are all the efforts which were made and with which reference is thereto is made in connection with the correction of the allegedly unfair acts.

MR. SWICK: Yes, sir. After tension had mounted with the forced resignation of Jack Condor and the apparently same situation regards to the janitors, Jesse and Edna Moore, and other matters that were of rather minor nature — this business of the nonretention of the four teachers came up.

MR. WALTON: Which teachers were they?

MR. SWICK: I believe the names were Svedlund, Armstrong, Hollenbeck and Brown, Charlies Brown.

MR. WALTON: What efforts were made to contact the Board with respect to their difficulty, sir?

MR. SWICK: The Seward District Teacher's Association Grievance Committee met and drafted a letter which was sent to the Board and the Superintendent simultaneously — I believe the date was about March 23rd, somewhere in there. The letter asked

to have a meeting with the Board, asked for an understanding — if we could reach an understanding just with the Board face to face. The President of the Board, Tom Howell, I believe invited us [263] through our chairman, Mrs. Copeland, to meet with them, as we did on March 31st and the minutes of that meeting, are of course, self-explanatory. Are they in the record, yet?

MR. WALTON: Tell me what — state briefly in order to save time, what happened at that meeting?

MR. SWICK: We were stopped cold by the Board. They refused to admit that they had done anything wrong. They accused the teachers of trying to hold them up on a technicality — claimed they were morally right, although admittedly in violation of the law. A situation totally incomprehensible to me, but apparently it's comprehensible to them and the meeting ended after two hours, a complete stalemate. Mr. Jeffrey, I think, commented that they'd take it to the courts if we pushed it, so we were dismissed.

MR. WALTON: That was the March 31st meeting?

MR. SWICK: March 31st meeting.

MR. WALTON: Incidentally, this letter that you say was written to the Seward School Board on March 20th, or in the middle of March, do you happen to have a copy of that?

MR. SWICK: No, I don't, sir — we didn't keep the copies — that is, I don't have a copy now.

MR. WALTON: You presume that a copy might be kept by the SDTA?

MR. SWICK: It should be, yes.

MR. WALTON: And this letter, was it written at anyone's request in particular?

MR. SWICK: It was written at the request of Mrs. Hollenbeck and Svedlund.

MR. WALTON: And, following the March 31st meeting, were any other efforts, such as those referred to made?

MR. SWICK: Yes, sir. After rejection by the Board, we send the total complex to the NEA Administrative Offices in Washington, D.C. to seek

counsel there. After two weeks we get a reply from the NEA expert administrative — or legal counsel on this matter urging us in view of the fact that we were a new state and that this was a new law and that a very valuable precedent could be set to seeing it through to its enforcement. That we pursue the case with all vigor. The Executive Committee of the SDTA of which I was not a member, did meet and on the basis of that letter wrote again to the School Board asking for the contracts within a specified number of days and quoting parts of the NEA letter.

MR. WALTON: And did that letter seek any relief of any sort?

MR. SWICK: Yes it asked for its contracts to be issued according to law.

MR. WALTON: I see and what response was received by the SDTA from the Board?

MR. SWICK: None.

[264] MR. WALTON: No oral response?

MR. SWICK: Not that I am aware of.

MR. WALTON: No written response?

MR. SWICK: Certainly no written response.

MR. WALTON: Contracts were not reinstated?

MR. SWICK: No, sir.

MR. WALTON: Were any further efforts thereafter to deal with the Board on this matter?

MR. SWICK: When the Board refused to even answer the Executive Committee letter the matter was taken to the floor of the group which I believe was on April 28th.

MR. WALTON: 1959?

MR. SWICK: 1959, decided to drop the issue by a very close vote — 12 to 11 as I recall.

MR. WALTON: The group voted not to pursue the issue of the Teacher's contracts, is that?

MR. SWICK: That's right.

MR. WALTON: I see. Was that the end of any further effort to work with the Board?

MR. SWICK: No, coming out of that meeting, the 11 people of course, who believed in the NEA principles, felt very strongly, wondered why the 12 people had re-

jected the idea and determined to see the thing through under another organization's banner.

MR. WALTON: Namely?

MR. SWICK: The American Federation of Teachers.

MR. WALTON: Which was formed when?

MR. SWICK: May 4th, 1959.

MR. WALTON: Did the AFT thereafter make any efforts such as these referred to in the paragraph I read?

MR. SWICK: Yes, sir. We made an attempt to reach the Board. The president of our organization made a telephone call to the chairman of the School Board and arrangements were made to meet. I believe the meeting was called for May 16th.

MR. WALTON: Before May 16th was there any dealing between the AFT and the School Board?

[265] MR. SWICK: Oh yes. The School Board Meeting on May 8th was attended by a large number of citizens in Seward. The American Federation of Teachers was present with a spokesman — a paid spokesman in the person of Pat Irvine, an attorney from Anchorage, who represented the American Federation of Teachers, did speak for them and at length did secure the Board's reversal of their previous decision.

MR. WALTON: Now, at this meeting was any mention made of the matters contained in this open letter?

MR. SWICK: Yes, I believe — I was not at that meeting, I hesitate to testify first hand.

MR. WALTON: Very well, I will not ask you to do so.

MR. SWICK: Thank you.

MR. WALTON: Following the May 8th meeting, other than the attempt to meet again with the Board on May 16th, were any efforts made such as those referred to in the paragraph I quoted?

MR. SWICK: I don't recall sir of any effort made between May 8th and the meeting of May 16th which ended in failure also.

MR. WALTON: Was there a meeting on or about May 28th between the AFT and the Board again?

MR. SWICK: After the Board failed to meet with us on May 16th, we did take this action of sending to the Board, and the Superintendent and the Public simultaneously this list of grievances which we had harbored throughout the year.

MR. WALTON: And now, prior to the May 8th meeting, had the AFT made any determination as to whether or not these grievances should be dealt with in a private way or publicly?

MR. SWICK: There was a great deal of discussion among us and we were of one accord that these should be dealt with privately if the Board would listen at all.

MR. WALTON: I see and I take it from the fact that they were published publicly on May 18th, that your efforts to handle these matters privately had failed?

MR. SWICK: Yes, sir — they did fail.

MR. WALTON: And in the course of all these attempts at negotiations did the Board did Mr. Fabricius, or did anyone else on behalf of the Board, ever complain to the AFT, or SDTA that those groups should should first go through the Superintendent.

MR. SWICK: Not to my knowledge.

MR. WALTON: As a matter of fact the AFT was addressed directly in the correspondence by the Seward School Board, was it not?

MR. SWICK: Oh yes.

[266] MR. WALTON: May this piece of paper be marked Appellant's Exhibit — 16.

May I please have it when it has been marked?

Will you please identify Appellant's Exhibit 16?

MR. SWICK: This appears to be a letter signed by the Seward School Board by Tom Howell dated May 18, 1959, addressed to Mr. Walter Blue, Presdent, Seward Local AF of T.

MR. WALTON: May I return to the Open Letter, Board's Exhibit 7. Paragraph 1 on page 1 refers to the illegal non-retention of three teachers, etc. I am going to hand you a copy of Board's Exhibit 7 and I'm going to ask you sir whether or not that paragraph contains any false, distorted or misleading state-

ments. If not, please explain the basis for the statements therein contained?

MR. SWICK: I don't know how it could be any truer.

MR. WALTON: Will you please explain that answer?

MR. SWICK: Well, the teachers were non-retained merely by a letter, I think, dated February 18th which said that the Board had considered them and had decided not to retain them and if they wanted to know why they could come and talk to the Superintendent.

MR. WALTON: The word illegal. What was that intended to refer to?

MR. SWICK: That refers to a Law passed in 1957 which requires the employing Board to furnish a cause within the limits prescribed by law, together with particular items supporting those causes.

MR. WALTON: Namely a Bill of Particulars?

MR. SWICK: A bill of particulars.

MR. WALTON: I direct your attention now to paragraph 2 on page 1, wherein reference is made to the duty of the administration to maintain harmony, and it refers to tension and friction. Will you please state whether or not anything in that paragraph is false, misleading or distroted and if not, state the basis for that paragraph, if you know.

MR. SWICK: Mr. Walton, that's a matter of conclusion. Friction is hard to define or pinpoint as Mr. Burr tried to get the previous witness to do. This document was created by a committee submitted to possibly 18 members of an organization, nearly 2/3 of the teaching staff at the very conclusion of the school year and they authorized us its publication.

MR. WALTON: If there is any particular example that you wish to refer to, please do so. If not, please say so.

[267] MR. SWICK: Well, I can speak only for the pupils, of course, under my control, the students in music. I know my band pupils were frustrated all year, my chorus people were frustrated all year because of an imposition we had to work under. We

were uncertain whether we could attend the Music Festival, finally when we did get the green light on it, we worked very hard and overtime.

MR. WALTON: I believe these matters refer to the subject matter on paragraph 9 on page 2, therefore I refer discussion to that paragraph.

MR. SWICK: I know Mr. Fabricius admitted this in his former testimony. He said there certainly was friction in the school, but he blamed it on the teachers.

MR. WALTON: With respect to paragraph 3? Referring to Board's Exhibit 6, referring generally with non-compliance of Fire Drill Regulations. Can you state whether or not there is anything distorted, misleading, or false about that statement and if not, state what the basis for it is, if you know.

MR. SWICK: No, there's nothing distorted or false about that. Mr. Fabricius himself had admitted that.

MR. WALTON: Has admitted non-compliance with Fire Drill Regulations?

MR. SWICK: Yes, in his testimony.

MR. WALTON: I direct your attention to paragraph 4 on page 1 of Exhibit 7, referring to the ordering of Jesse Moore, the custodian, to do technical, electrical work beyond his skill. Do you know any facts underlying that statement?

MR. SWICK: I know only what Jesse Moore told me as he dictated his statement to me. That dictation took place, I believe, on May 7th, the night before the May 8th School Board meeting.

MR. WALTON: Would this be Appellants Exhibit 18 — 17. Let me hand you Appellants Exhibit 17 and ask you to identify it.

MR. SWICK: Yes, this is my handwriting. This is the statement that Jesse Moore dictated to me.

MR. WALTON: Dictated on or about May 7th, did you say?

MR. SWICK: That's correct.

MR. WALTON: It is written in your handwriting?

MR. SWICK: Yes, sir.

MR. WALTON: Was anyone present when it was written?

MR. SWICK: I believe Mr. Blue was in the room.

MR. WALTON: Is it a literal statement of his words?

MR. SWICK: Yes, sir.

[268] MR. WALTON: Will you please tell the Board generally without reading that statement, what Jesse Moore told you with respect to the matter stated in Paragraph 4 of Board's Exhibit 7?

MR. SWICK: Jesse's statement in general says in December Mr. Fabricius ordered me to perform work on the electronic controls of the furnace. Mr. Moore believes it is contrary to Fire and Electrical codes which requires a qualified electrician. He said I am not qualified to do electrical work of that nature and had been directly ordered by Fire Chief Kielcheski not to do the work, I refused, but was arbitrarily and summarily commanded by Mr. Fabricius to proceed with the work. Apparently he didn't do the work because his next statement says in the meantime Mr. Fabricius did hire a competent electrician to trace out the circuit. When I refused to do the electrical work, Mr. Fabricius ordered me to go to the next Board meeting and then he said that same afternoon, that he wouldn't insist on me attending the Board meeting. I insisted I be allowed to meet with the Board to clarify my duties.. When I met with the Board, I got no satisfaction and no definitions of my duties and I was told only that I must follow the orders of the Superintendent — the amount of time couldn't be limited — that meant his working hours. I asked the Board if they thought I should have done the electrical work after having been ordered not to by the Fire Chief — they gave me no answer. Mr. Jeffrey said it looks like I was not going to get along with the Superintendent so we might as well call it quits and I said that suits me. But before this, Mr. Jeffrey said, it would not be my responsibility if something happened, and they talked about responsibility in the furnace room. They talked about comments of other citizens present and he summarized by saying I felt qualified to operate the furnace but

not to repair it, as many good motorists are not repairmen. And this is his conclusion of Mr. Fabricius' attitude — he says his arbitrary and authoritative manner creates an atmosphere of unpleasant and unsatisfactory working conditions and he adds this afterthought. On Saturday morning of the fire inspection Mr. Fabricius was alleged to have said "you can't bring labor rights into a school. You have no more rights as to time and duties then the teachers and they have none".

MR. WALTON: And did he sign that statement?

MR. SWICK: He did not.

MR. WALTON: Why did he not?

MR. SWICK: We didn't ask him to.

MR. WALTON: Why did you not?

MR. SWICK: At that time Mr. Walton we were not anticipating a court trial over this. We were merely trying to get statements of people who witnesses these things so that we would not be going out on a limb in asking that these conditions be corrected.

[269] MR. WALTON: The purpose of his statement was in fact, was it not, to support the matters which you intended to bring to the Board's attention.

MR. SWICK: Yes. This has been a matter of quite some talk in the Grade School to which Mr. Fabricius had already alluded to and we wanted to find out first hand, rather than listen to gossip, so we got it first hand from the person to whom it happened.

MR. WALTON: May I direct your attention to Paragraph 5, Board's Exhibit 7 and I ask you Mr. Swick, if you have ever heard anything stated such as, or similar to the remarks therein attributed to Mr. Fabricius and whether or not if you can testify to any other matters supporting that paragraph?

MR. SWICK: I never heard the words that are in this quotation mark, but there was an apparent attempt to purge the faculty, I realized that the first week when Mr. Condor's head rolled, but I didn't realize it was going to the extent of janitors, secretaries and all other types of help too, and least of all to me.

MR. WALTON: Have you, yourself, ever heard Mr. Fabricius say anything similar to the words there attributed to him?

MR. SWICK: He referred one time in his office of getting rid of some of the deadwood and he nodded upstairs in this building. One time he called me into Mr. Frampton's office in the spring after I had been circulating a document that was to be used for the basis of a charter application of the American Federation of Teachers, and he called me in and we discussed a rumor to the effect that I was circulating a petition to get rid of him, which seemed to indicate some sort of complex on his part.

MR. WALTON: You say he asked if you were circulating a petition to get rid of him?

MR. SWICK: Well, he said, I hear you're circulating a petition to get rid of me and I said, who told you that and he said, that doesn't matter who told me that and I said then I refuse to comment on it until I can face my accuser. And he said, well it's right, isn't it and I said no, as a matter of fact, it is not correct. And he said, Swick, you know, I've had good reasons for the things I've done here this year, and I said, I'm sure you have Mr. Fabricius, it's just that we'd all like to know about them and Friday night, this was about May 4th this conversation took place, and I was referring to the May 8th meeting, Friday night I said, you'll have an opportunity to tell the whole Seward public what your reasons have been. And he said, when we opened the doors, you know I may go down the road over this, Swick, but I'll take a lot of you with me. And with that, the conversation ended.

MR. WALTON: I direct your attention to paragraph 6 of Board's Exhibit 7, generally referring to a provoked resignation of an outstanding teacher by forbidding him to ride in a school bus, apparently in violation of a rule and regulation. Who is, do you know who the teacher there referred to is?

[270] MR. SWICK: Yes, sir, that refers to Jack Conder.

MR. WALTON: Tell us something about his qualities as a teacher?

MR. SWICK: Well, I had only worked with Jack one year — that was '57-58, under Mr. Carlson. I got the impression that Jack was an extraordinary person. He was short of stature but he was a giant in creative ability. He had the additional ability to transmit the desire to create among the children. The little kids right up to the very difficult Junior High age responded to Jack in what I considered just an extraordinary manner. I'm sure that the many, many parents in town still remember the cute little projects, art projects, excellent work that their children brought home. I was particularly impressed also with the way he assembled and organized, produced a play among the adults in town, he organized a dramatic group which put on the Wilder play "Our Town" in which Mrs: Skinner, currently of the Board, played a very fine part. Mr. Condor was temperamental as some artists are, he tends to be outspoken, he tends to speak his mind. I did not feel that that had any effect whatsoever with classroom activities and his efficiency in the classroom.

MR. WALTON: What do you know about this alleged provoked resignation?

MR. SWICK: Again, all I know is what Jack told me. He came down to my house for lunch that day that he had been resigned, and he told me the details of it. He had been told the previous week — this was Monday morning following the Tuesday on which school started — it would be the 5th school day of the year.

MR. WALTON: 1958?

MR. SWICK: 1958. And the bus schedule were in a state of flux and Mr. Fabricius apparently for some reason had ordered him not — ordered him, no one else, apparently, not to ride the bus, and Mr. Condor rode the bus anyhow on Monday morning because the bus schedule had changed to get him in to school before the 8:30 deadline. Now, he couldn't understand why then Mr. Fabricius had ordered him not to ride the bus when he was still, when under the new schedule he would get to work on time. So as I understand it, he called Mr. Fabricius to get the matter straight-

ened out from the Grade School and Mr. Fabricius then came over to the Grade School from the High School arrving here about 9 o'clock, sent Mr. Frampton down to get Mr. Condor out of the Art Room, Mr. Condor went up to the office and the conversation ensued which is a matter of record.

MR. WALTON: That's the conversation, isn't it, where the secretary was standing by and transcribed — rather took shorthand notes on what was being said by everyone all the time?

MR. SWICK: Mr. Condor told me that day at lunch that Mr. Fabricius had ordered her to take the notes.

MR. WALTON: Do you know whether or not any of your conversation with Mr. Fabricius were ever taken down in shorthand?

MR. SWICK: Pardon?

[271] MR. WALTON: No, just taken down in shorthand.

MR. SWICK: I couldn't say as to that — they might have tried it.

MR. WALTON: In Paragraph 6 of this Board's Exhibit, I see that the word seems is underlined. In what seems to be a violation of the intent of certain rules and regulations. I might say that this is going to be marked Appellants Exhibit 18. I direct your attention to page 13 of Board's Exhibit 18 and ask you if you can please tell the Board why the word "seems" was stated in that paragraph?

MR. BURR: Can I have for the record an identification of the Exhibit?

MR. WALTON: Yes, Appellant's Exhibit 18.

MR. BURR: What is it?

MR. WALTON: Oh yes, excuse me, sir, thank you.

MR. SWICK: Do you want me to read the front cover, Mr. Walton?

MR. WALTON: No, just identify it.

MR. SWICK: It's a manual for school bus transportation, rules and regulations of the Territorial Board of Education, laws of the territory of Alaska effecting school transportation issued by the territorial Department of Education, as of March 1, 1954.

MR. WALTON: Were you instrumental in the drafting of paragraph 6 of the Board's Exhibit 7?

MR. SWICK: I don't recall at this time what part, if any, that I had of the composition of any of these paragraphs.

MR. WALTON; Can you explain to the Board now why Mr. Fabnicius action with respect to Mr. Conder appeared to be in violation of the regulations?

MR. SWICK: This is one I really would hate to go to court on. Paragraph 31 says, all negative, drivers must not haul any persons who is not a pupil of the school, a teacher or an employee of the school, without the written consent of the school authority. We in our humble way interpreted that to mean that drivers may haul any persons who is a pupil, a teacher, or an employee of the school without the written consent of the school authority.

MR. WALTON: Well, you recognize that there was a question of the proper interpretation of that regulation?

MR. SWICK: We felt that the problem could certainly have been worked out without a big lawsuit within the first week of school, yes.

MR. WALTON: Now, I direct your attention to paragraph 7 of Board's Exhibit 7, referring generally to the dictatorial treatment of teachers forcing them into a choice of submitting and taking it at a loss of personal dignity, or fighting back a public spectacle. Would you care to state to the Board what in fact prompted the preparation of that paragraph?

[272] MR. SWICK: Well, specifically there was the Jerry Smith incident, there was the Jack Conder incident, there was the drawn out Jesse Moore incident that had happened, of course, the pattern has not changed, the record will show that the people who have not suffered loss of dignity have either left town or are presently in town and unemployed.

MR. WALTON: Would you please direct your attention to paragraph 8 of Board's Exhibit 7 which refers generally to a peremptory and threatening manner of speaking in the presence of pupils to Mr. Smith.

MR. SWICK: Yes, I did not personally witness that — I know that Mr. Smith did write Mr. Blue a statement to be released at the discretion of the American Federation Teachers and I believe we have that statement.

MR. WALTON: Very well. We will let Mr. Blue testify on that. Directing your attention to paragraph 9 of Board's Exhibit 7 referring to alleged defaults in educational leadership, sub-paragraph a, in neglecting to permit the development of a proper music program. Can that statement be substantiated, Mr. Swick?

MR. SWICK: As I was the teacher of what music program we had, yes, I would be the one that was closest to that. Early in the year Mr. Fabricius set a policy of segregation of the Grade School and High School pupils as far as Band and Chorus work was concerned. It happened that year that I had only 8 holdover members in the High School Band. I did have a rather healthy group coming up though in the upper grades, I think I had about 15 or 16 kids playing, which combined would make a 24 or 25 piece band which would be sufficient to rehearse, it would have enough instrumentation that it would sound like a band. The kids could be interested in it we could go ahead and play and perform and of course that is the essence of a band program. Mr. Fabricius philosophy however differed almost a 180 degrees, he felt that the music program should be confined to small groups, or even individual lessons, and that the playing together was not necessary to a good music program. The music program was in the doldrums as a result of this. I asked him one time why he objected to bringing the Grade School pupils over to the Armory to play — his response was that he didn't believe in mixing the little children with the High School children and that they learned soon enough anyway. And I said to him that the High School children that I had in my band were of high calibre, they were the sons and daughters of 4 of the Board Members I recall at that time. That apparently didn't make any

difference. He complained about the weather — it would to big an imposition for the kids to walk the 2-1/2-3 blocks from the Grade School and he found all sorts of excuses for not allowing the Band to become a band.

MR. WALTON: Can you in any way explain any information substantiating subparagraph b of paragraph 9 of Board's Exhibit 7 pertaining to be a Drama Festival?

MR. SWICK: Not the first part, although I had heard that the school had done real well up in Palavir the previous year, yes, sir, that's hearsay.

MR. WALTON: And I take it that with respect to sub-paragraph c of paragraph 9 you have — do you have to add anything with respect to that paragraph to which you have already testified? Do you wish to supplement [273] your previous testimony in any way in response to the following question, can sub-paragraph c be substantiated?

MR. SWICK: I believe not, I think if we get the letter that Mr. Condor wrote to the Board into the record on the day of his resignation, or the day following it, I think we get Mr. Smith's statement into the record, I think we will have a fairly complete picture there for the State Board. As far as passing the value of judgment on a definite contribution, modesty precludes me from testifying on myself but the other two I can certainly testify in a positive way on that.

MR. WALTON: Let me hand you a document which I am marking Appellant's Exhibit 19. Will you please identify it?

MR. SWICK: This is a statement dated May 11th — or rather it's a letter from Jerome C. Smith, dated May 11, 1959 to Walter F. Blue, American Federation of Teachers.

MR. WALTON: Now, Mr. Swick, Mrs. Davis has testified with respect to paragraph 10, will you please direct your attention to the paragraphs following on page 2. You have already testified with respect to the first paragraph referring to previous efforts?

MR. SWICK: Yes, sir.

MR. WALTON: Is there anything false, misleading or distorted in about the following paragraph, starting with the words, On May 8th?

MR. SWICK: I'll repeat, I was not at that meeting. I heard that that statement had been made. I would rather have someone — there were 200 people at that meeting — perhaps someone could testify to that.

MR. WALTON: Very well. I take it that would also be your answer to the following paragraph starting with the words "at this time"?

MR. SWICK: Yes, sir.

I know what the positions of the union was as we went into that meeting.

MR. WALTON: What was the position of the Union with respect to withholding information from public distribution?

MR. SWICK: This was 4 days before commencement — the high spot of the graduates year — in many respects the high spot of the school year. The American Federation of Teachers Local in its effort to keep this friction — the American Federation of Teachers in an effort to keep the publicity and the fanfare down to a very minimum and yet secure the major points, that is the contracts for the three non-retained teachers, had instructed its attorney, Pat Ervine, not to use this material in public.

MR. WALTON: By this material, you are referring to what?

[274] MR. SWICK: I am referring to the items which were later incorporated into this so-called Open Letter, with exception of paragraph 9 and 3, I guess — excuse me, that is number 8, that is all the items except those referring to Mr. Smith and Mr. Swick.

MR. WALTON: You say Mr. Ervine was instructed not to do what?

MR. SWICK: Mr. Ervine had been instructed by our local not to make these matters public except as last resort.

MR. WALTON: Was he instructed to attempt to negotiate with the Board concerning the other matters in Board's Exhibit 7?

MR. SWICK: He was instructed to negotiate with the Board concerning the non-retention of the 4 teachers and the extension of time to be allowed to get education — to satisfy the Board's newly imposed educational requirements — those two items.

MR. WALTON: Was he given a written list of the matters which are there in Board's Exhibit 7, less the Swick and Smith material?

MR. SWICK: He was.

MR. WALTON: The next paragraph on page 2 of Board's Exhibit 7 states generally that the AFT invited the Board to meet with it privately?

MR. SWICK: That is true.

MR. WALTON: The meeting time was fixed to suit the convenience of the Board?

MR. SWICK: I believe that is correct.

MR. WALTON: And the meeting time was when?

MR. SWICK: May 16.

MR. WALTON: 19.

MR. SWICK: 1959.

MR. WALTON: The following paragraph states Mr. Howell, President, appeared but no one else appeard on behalf of the Board? Is that correct?

MR. SWICK: That is correct.

MR. WALTON: Were you there at the May 16th meeting?

MR. SWICK: I was.

MR. WALTON: Did Mr. Howell explain why the other members did not appear?

MR. SWICK: I believe he said something about refusing to meet until they had an attorney present which we felt was a little strained and unusual for a group of neighbors in a small town, having to have an attorney to meet with them. I still do.

[275] MR. WALTON: I believe the rest of Board's Exhibit 7 contains a list of requests does it not?

MR. SWICK: Yes, sir.

MR. WALTON: Is there anything false, misleading, distorting about these requests?

MR. SWICK: I don't know how you could distort a request.

MR. WALTON: Now, the Appellants in this case, Mr. Swick, were also charged with having carried to the people of the community of Seward, a petition seeking the recall of the School Board on charges that could not be substantiated and were false. I have marked that Appellants Exhibit 20 and I would like to ask the witness to identify it. It consists of 3 pages.

MR. SWICK: Yes, the white page is entitled Explanation of Grounds, which we attached to the inside cover of the Petition Folder, it listed the causes or the grounds for this recall action as Nonfeasance in office, then we defined it for them, for the signors, as a neglect of some act required in a legal duty and under that we have listed three failures to follow laws and our second ground was Failure to Uphold ones Oath of Office.

MR. WALTON: Mr. Burr, I believe that you have a copy. I believe you introduced it as a Exhibit at the preceding meeting, but I'd still like to mark this Exhibit 20.

Now, Mr. Swick, with respect to Nonfeasance in office, I believe that the petition cited 3 examples, did it not?

MR. SWICK: I believe so.

MR. WALTON: And will you please state what the first example of alleged nonfeasance in office was?

MR. SWICK: Yes, it's based on the Board's failure to insure the Fire Drill Laws, SLA-37-2-55 to be enforced.

MR. WALTON: Mr. Swick, is that statement, in your opinion, true or false?

MR. SWICK: I've heard Mr. Fabricius say it's true.

MR. WALTON: What was the second ground stated in the petition for the alleged non-feasance of the Board?

MR. SWICK: We alleged that the Board failed to issue 4 contracts from March 19th to May 8th, as required by Section 138, Chapter 5 of SLA 1957.

MR. WALTON: Which four contracts were those?

MR. SWICK: These were the contracts which should have gone to Armstrong, Svedlund, Hollenbeck and Charles Brown.

MR. WALTON: I believe you have already testified, have you not, that the Board did not issue those until the May 8th meeting?

[276] MR. WALTON: What is the third ground for alleged non-feasance?

MR. SWICK: The Board failed to provide for a public inspection of records and files of the Board at a reasonable time. To wit, Friday, May 27th, 1959, at the hour of 10:20 A.M., as required by SLA 37-3-37, which states "that all records and files of public school board shall be open to inspection by the public at all reasonable times.

MR. WALTON: Do you yourself have knowledge of any facts supporting that statement?

MR. SWICK: Yes, sir.

MR. WALTON: Please state the same.

MR. SWICK: The morning of May 29th, following the May 28th meeting at which the Board did meet legally at last, and properly, and everything was presumably in order with our Union, The American Federation of Teachers, represented by Mr. Watts. Mr. Watts reported again, no progress and we were committed by action of our group that should this meeting fail, we would institute recall action. So, the next morning, in preparing to institute the recall action, I approached the place where the records are kept, namely the High School Office, Mr. Fabricius was in charge. I made the request to inspect the School Board Minutes and after taking a tongue lashing for a few minutes, I was told to get out and I asked, does that mean you refuse to allow me to inspect the public record. And he said, it does, and I went down to the Post Office where I saw the President of the Board, Mr. Tom Howell, told him what had happened, asked him if he wanted to order his employees up here to make these records available and he stammered a little and said, well, the way

functioned as a teacher since the Spring of 1959 in the Seward Schools?

MR. SWICK: That is correct.

MR. WALTON: Mr. Swick, these appellants have also been charged with having engaged in clandestine activities and I believe that some reference there is made to their association with yourself. Do you know, whether or not, the appellants have been engaged during the school year of 1958-59 in clandestine activities?

MR. SWICK: I would have to have a definition of that, sir?

MR. WALTON: Well, let's take Mr. Fabricius definition — a meeting to which he was not invited.

MR. SWICK: Yes, sir, I'm sure that they've engaged in many meetings of that nature.

MR. WALTON: Were you present on those occasions?

MR. SWICK: I may have been present at some of them.

MR. WALTON: We might take Mr. Burr's definitions — a meeting of which the Board does not have full knowledge. Do you know whether or not these appellants engaged in such meetings?

MR. SWICK: I can't possibly know what the Board knows.

MR. WALTON: Is it likely, Mr. Swick, that these appellants have in your presence engaged in such meetings?

MR. SWICK: It is quite possible.

MR. WALTON: As a matter of fact, did the AFT make a policy of advising the Board of all of its meetings?

MR. SWICK: We did not — we do not.

MR. WALTON: Do you know of any rule or regulation according to which it is required to?

MR. SWICK: I do not.

MR. WALTON: Mr. Swick,

MR. SWICK: Is it out of place this time, Mr. Walton, to point out that the School Board which might be called clandestine which we think perhaps is even

more out of line than a Union holding a meeting, because they are sitting and spending public funds and there are laws against School Boards holding so-called Executive Sessions without going through the channels provided by law. And when you call that to [279] their attention, still the meetings go on.

MR. WALTON: In summary, Mr. Swick, have you any reason to believe that these appellants by circulating a petition for recall of Board members, or by circulating Board's Exhibit 7, tended to disgrace them and the teacher's profession and bring them into public disrespect, or the teaching profession?

MR. SWICK: Mr. Walton, it's my firm conviction that it's possible people like the Appellants who will save this profession from the public disrespect.

MR. WALTON: Why do you say that?

MR. SWICK: I say that because if we allow this sort of administration to continue without questioning it, we are just as guilty as the people who support it we therefore stirred up after every possible channel was exhausted, ethical channel, we finally had to make the situation known to the public. The public was already aware of it — they had continued to be aware of it — the town was split wide open as the testimony last night contained, and if people don't — if people who are inside and know the situation will not stand up and tell the facts, then the situation is going to continue, continue, continue. There will be no other choice, no other hope for the future of education.

MR. WALTON: I have no other questions.

MR. CASEY: I will call a 10 minute recess — 10:25 PM. Reconvened at 10:40 PM.

The meeting will be reconvened.

MR. BURR: Mr. Swick, I gather from the sum and substance of your testimony taken as a whole, that you are now and have been for some period of time dissatisfied with Seward School System in many respects?

MR. SWICK: That's true.

MR. BURR: And would you be able to particularize

that as being primarily in the area of the Superintendent of Public Schools?

MR. SWICK: I would.

MR. BURR: Would it have anything to do with the Seward School Board as such?

MR. SWICK: Only in that I feel they have been mislead by this man.

MR. BURR: You feel that they have been controlled?

MR. SWICK: Technically, no superintendent can control a School Board.

MR. BURR: Wherein lies the reference, then?

MR. SWICK: I believe from the personality of the Superintendent, yes, sir.

MR. BURR: Would it be fair to state, Mr. Swick, that the complaints that you have so very carefully enumerated in your direct examination, to be basically the same complaints that were voiced in the Bill of [280] Particulars published by your local and also made the subject of the recall petition which was circulated in the City of Seward?

MR. SWICK: Would you state that again, please?

MR. BURR: Would it be fair to state that the complaints that you have enumerated in your direct examination, about the Superintendent and the School Board — would it be fair to state that those complaints are basically the same complaints that you were complaining of, or the local was complaining of in the Spring of 1959, and also the complaints which were made the subject of petition for recall?

MR. SWICK: Yes, sir.

MR. BURR: And would it be also fair to state that these complaints being made the subject of a recall election, which ultimately was held, were determined by the electorate of the town of Seward?

MR. SWICK: I'm sorry, I didn't follow that.

MR. BURR: Well, would it be fair to state then that the complaints which were the basis for and the substance of the recall election of the School Board members, were determined by the electorate of the City of Seward?

MR. SWICK: Yes, sir, I guess so.

MR. BURR: Well, are you not then, Mr. Swick, beating a dead horse, at this time by voicing the same complaints?

MR. SWICK: No, sir.

MR. BURR: Will you explain why.

MR. SWICK: I was asked a question about why we published the Open Letter and I answered that.

MR. BURR: Do you not feel at this time that the people of Seward having had these complaints placed before them in the public form of a common election. Don't you feel that the City of Seward has voiced an opinion as to the validity of the charges that you have complained of?

MR. SWICK: Not necessarily.

MR. BURR: How many of the School Board members were recalled, Mr. Swick?

MR. SWICK: None that I knew of.

MR. BURR: When did you become active in the American Federation of Teachers?

MR. SWICK: At it's inception, May 4th, 1959.

MR. BURR: Were you a member of the AFT prior to that?

MR. SWICK: No, sir.

[281] MR. BURR: I should like this Exhibit marked as the next Board Exhibit, please.

I should like to hand you Board's Exhibit 20 for identification. And ask you whether or not you have seen that Exhibit before?

MR. SWICK: No, sir, I haven't.

MR. BURR: Nor a similar exhibit?

MR. SWICK: No, sir, I have not.

MR. BURR: Have you made any application in any school system beside Seward since the month of September, 1960?

MR. SWICK: No, sir, I have not.

MR. BURR: You don't know as a matter of fact whether there is any ill effect resulting from your relationship with the Seward School Board and the Seward School Superintendent?

MR. SWICK: Yes, sir, I do.

MR. BURR: Will you tell me how you have ascertained that?

MR. SWICK: Yes, sir. Following the Fishing Season in 1959, I approached the Clerk of the Board at Saldovia, Mrs. English, who is the Post Mistress over there and asked her if the position of Superintendent had been straightened out yet so that I might properly and ethically apply for that position. She was rather abrupt with me — she said, Mr. Swick, we're going to be very careful about who we consider for any teaching positions, what with Teacher's Unions, and Tenure Laws. She said, School Boards don't have a chance to run the schools any more and she was rather short, as I say, and turned on her heels and walked away from me.

MR. BURR: Have you talked with any other representatives of the school system — of a school system?

MR. SWICK: Yes, sir, I went to see Merrill Hatcher, who is representative for the State Department in Anchorage office about employment that Fall on the Kenai where they were short of teachers and he gave me an application blank and told me that the Band position in Kenai was available. I made application to the Commissioner's Office in Juneau, I waited a couple of weeks and got no reply. Went back and saw Mr. Hatcher in Anchorage and asked him if it was the policy of the Department to answer applications, or at least acknowledge receipt of them and he said, that yes yes it was and that I should have heard, but he had a phone conversation with Juneau in very recent past and that he happened to know that I was not to get that appointment or any other.

MR. BURR: Do you still have a valid teaching certificate?

MR. SWICK: I do, sir.

MR. BURR: But you have not, in fact, made application to any other School System for a position of employment, have you Mr. Swick?

[282] MR. SWICK: None other than Seldovia and the State.

MR. BURR: Did you make an application in writing to Seldovia?

MR. SWICK: I did, sir.

MR. BURR: What was the result of that?

MR. SWICK: Negative.

MR. BURR: Did they give you any reason for it in writing?

MR. SWICK: Yes, sir. They said that they had moved one of their local men up to the Acting position of Superintendent.

MR. BURR: Thus filling the vacancy.

MR. SWICK: Presumably, yes, sir.

MR. BURR: But no reference was made to your background, was it, Mr. Swick?

MR. SWICK: In their reply? No.

MR. BURR: You have a fairly poor opinion of the present Superintendent of Schools in Seward, do you not, Mr. Swick?

MR. SWICK: You have to define that, sir.

MR. BURR: A poor, professional opinion.

MR. SWICK: Yes, sir.

MR. BURR: And you have entertained this opinion for some period of time?

MR. SWICK: It was a growing thing with me, sir, during the years '58-59.

MR. BURR: Was it good to start with?

MR. SWICK: It was.

MR. BURR: Was it superior to start with?

MR. SWICK: It was completely neutral. I knew nothing about the man when he came to Seward.

MR. BURR: You do give the man that you are not familiar with the benefit of doubt?

MR. SWICK: Certainly.

MR. BURR: Until you know otherwise?

MR. SWICK: Absolutely.

MR. BURR: When it did it first come to your attention that Mr. Fabricius was [283] not wholly satisfactory in your opinion?

MR. SWICK: Was not wholly satisfactory?

MR. BURR: As a Superintendent.

MR. SWICK: I was shocked when Jack Condof was

forced into resigning the first week of school. I felt that probably there was something behind the thing that I couldn't see — that was apparent, because this seemed to be, to me, very drastic action for riding a school bus.

MR. BURR: Do you know what insubordination means, Mr. Swick?

MR. SWICK: Yes.

MR. BURR: Do you believe in insubordination, as you understand the term, to be sufficient grounds for encouraging the dismissal of a school teacher?

MR. SWICK: For encouraging the dismissal?

MR. BURR: Well, let's say, encouraging the resignation of a school teacher? Let me rephrase the question. If you were Superintendent of the Seward Schools, would you tolerate insubordination of a school teacher under your jurisdiction, Mr. Swick?

MR. SWICK: I would not.

MR. BURR: Would you say that it is true that after you've formed your opinion of Mr. Fabricius and that it was adverse, sometime after the Fall of 1959, that you set about with other individuals, and specifically, Mr. Blue and Mr. Watts, on a course of action which you hoped, at least hoped, would accomplish the removal of Mr. Fabricius?

MR. SWICK: From the Seward School System? It is not within the province of any teacher, any professional person to attempt to remove any other professional person. It is wholly within that person's province, and actually, I believe, it is his obligation to bring pertinent facts to the proper employing agency, which we attempted to do with the local Seward School Board, yes, sir.

MR. BURR: I don't think you understood my question. Did you, together with other individuals that I have named, either as members of the AFT, or members of any other group, or individually, devise and set about and set upon a plan or a course of action which you hoped would accomplish the removal of Mr. Fabricius?

MR. SWICK: Not necessarily, sir.

MR. BURR: So the statement is not true that was not your objective?

MR. SWICK: No, sir, I have never said that, nor has the American Federation of Teachers ever said that or even implied it.

MR. BURR: Well, are you saying, that what I have said is not accurate?

MR. SWICK: You mean your question?

[284] MR. BURR: Yes.

MR. SWICK: Of course not.

MR. BURR: So you did not have that objective in mind?

MR. SWICK: No, sir.

MR. BURR: And you did not have that objective in mind when you prepared and caused to be prepared Exhibit 7, Board's Exhibit 7, which you have carefully defined and examined?

MR. SWICK: No, sir.

MR. BURR: It was not your objective in the preparation of this document, or the assistance of the preparation of to bring Mr. Fabricius into public disgrace in the town of Seward?

MR. SWICK: No, sir.

MR. BURR: And you had no such objective in mind when you caused this to be publicly distributed to the citizenry of Seward?

MR. SWICK: No, sir.

MR. BURR: Did you, at the time of distribution of Exhibit 7 to the public, believe that the public at large could remedy the situation, short of a recall election?

MR. SWICK: Yes, sir.

MR. BURR: And what course of action did you propose that the public at large could do to remedy what you have set forth in Exhibit 7?

MR. SWICK: Mr. Burr, since we had failed to make contact with the Board, we felt that by making this information available to the rest of the public, that perhaps some of their friends that they would listen to, would get them to examine the truth of the statements and perhaps take appropriate action such as we asked on page 3, namely, that they would de-

mand immediate guaranteed and substantial improvement in the administrative policies, and we outlined them there. There's nothing wrong with that.

MR. BURR: Do you believe in an orderly democratic process of presenting grievences to public bodies?

MR. SWICK: Yes, sir.

MR. BURR: Is it your testimony that you did everything within the bounds of the law to spread out and bring to the attention of the public body the complaints that you have outlined in Exhibit 7?

MR. SWICK: Not only within the bounds of the law, but that was within the bounds of the ethics of the profession.

[285] MR. BURR: But you didn't seek a recall prior to distributing this information to the public?

MR. SWICK: No, sir.

MR. BURR: As a matter of fact, this antedates some period of time, the circulation of the petition for recall. I'm referring to Exhibit 7?

MR. SWICK: That is true.

MR. BURR: Isn't it true, Mr. Swick, that in lieu of bringing this matter to the public, that you had a more obvious purpose of embarassing the members of the School Board and the Superintendent in the eyes of the public?

MR. SWICK: Not necessarily, sir.

MR. BURR: By that you mean that was one of your objectives?

MR. SWICK: No, sir.

MR. BURR: Then it was not one of your objectives?

MR. SWICK: No, sir. If they could have explained all of these matters to the satisfaction of ordinary thinking people, that certainly was their prerogative and their privilege and their duty as school board members.

MR. BURR: You had no desire by the distribution of Exhibit 7 to embarass Mr. Fabricius in the eyes of the public, and the school board by the distribution of Exhibit 7?

MR. SWICK: That was not our purpose, sir.

MR. BURR: That was not your purpose. You have a Master's Degree in Education?

MR. SWICK: I have.

MR. BURR: And are you telling me that paragraph 5 of Exhibit 7 which says and I quote "on different occasions threatening to get one third of the faculty this year and half of the remainder next year". Are you telling me, Mr. Swick, that was not designed to embarass Mr. Fabricius?

MR. SWICK: We didn't say that, we were reporting Mr. Fabricius as saying that.

MR. BURR: Repeating a falsehood is just as bad ad devising it, Mr. Swick.

MR. WALTON: Objection. There is nothing in this record to warrant that question. He presumes that it is false — there's ample testimony that it is true.

MR. BURR: Are you telling me that if this were true, that you had no desire to embarrass Mr. Fabricius by distributing this garbage in public form in Seward? Is that your testimony, Mr. Swick? You with a Master's Degree in Education?

MR. SWICK: Will you repeat that please?

MR. BURR: Can you read it back to him? His memory is remarkably short when he wants it to be.

[286] MR. WALTON: I'm going to object to the use of the word "garbage" — I don't think we're down to that level — I think he can talk —

MR. BURR: I think we are — I'll correct you, Mr. Walton.

MR. WALTON: No, I don't think we are. Mr. Chairman, I ask that word be deleted from the question — it's an attempt to antagonize and argue with the witness.

MR. BURR: All right — you needn't answer the question.

MR. WALTON: I request that the witness be given an opportunity to answer it, subject to my request that that word be stricken.

MR. CASEY: The word garbage — is that what you're objecting to?

MR. WALTON: Yes, sir.

MR. BURR: Can you propose a suitable substitution, Mr. Walton?

MR. WALTON: It's your question, Mr. Burr.

MR. CASEY: Would you strike the word garbage, please.

MR. BURR: Let's use the word gossip, then.

MR. WALTON: I'll move to strike the word, gossip. There's nothing in here to show that this isn't true. There's nothing here to show that it is just gossip. Why don't you just say "this statement".

MR. BURR: I'll propose my question — you propose yours.

MR. WALTON: I'll object to yours.

MR. BURR: Well, your objection is noted — let's proceed with this hearing. Give him a ruling.

MR. CASEY: Objection overruled. Go ahead.

MR. WALTON: Excuse, I believe the young lady was going to read the question back.

MR. BURR: Do you want me to restate the question, Mr. Swick?

MR. SWICK: If you will.

MR. BURR: Is it your testimony, and do you want this Board to believe, you under oath, that what I have just read from paragraph 5 of Exhibit 7, which appears to be a quote of somebody, specifically Mr. Fabricius, do you want the Board to believe that a publication of that statement was not designed to embarass him in the eyes of the public of Seward?

MR. SWICK: No, sir, it was not designed for that purpose. If it had the side effect of doing that, that was an unfortunate occurrence, that's something we had no control over.

[287] MR. BURR: It was an unfortunate occurrence that you didn't object to, though, wasn't it?

MR. SWICK: I voted to publish the letter.

MR. BURR: Thank you. You mentioned that you were one of the organizers of the Seward Local of the AFT, is that right?

MR. SWICK: I don't know that I mentioned it, but I was.

MR. BURR: Were you a charter member of this local?

MR. SWICK: I was.

MR. BURR: And are you still a member?

MR. SWICK: I am.

MR. BURR: Is this affiliated with the American Federation of Labor?

MR. SWICK: It is.

MR. BURR: Who's the President of the AF of L, CIO?

MR. SWICK: George Meany? I'm not even sure about that, sir. I think it's George Meany.

MR. BURR: Do you believe —you don't have to answer this if you don't think it's a fair question, Mr. Swick — but do you believe that organized labor has a place in public education?

MR. SWICK: Yes, I do.

MR. BURR: Do you believe that teachers as a professional group, should be subject to the AFL-CIO, in every aspect?

MR. SWICK: Should be subject to it?

MR. BURR: Subject to it as a local of the parent union.

MR. SWICK: You'd have to be more specific than that.

MR. BURR: The teachers are considered to be a professional group, are they not?

MR. SWICK: By some of us, yes, sir.

MR. BURR: Well, they are generally recognized as professional people, aren't they?

MR. SWICK: I believe so.

MR. BURR: Do you consider — are you of the opinion, Mr. Swick, that professional people should be organized in the same manner that other callings should be — less professional ones.

MR. SWICK: Yes, if they prefer the organization, yes, sir.

MR. BURR: Do you prefer it?

[288] MR. SWICK: I do, sir.

MR. BURR: How many of the school teachers in the Seward System right now, are members of the AFL-CIO Local?

MR. SWICK: Very few, sir.

MR. BURR: Yourself, and the two respondents, and how many others?

MR. SWICK: Of course our position in the Seward School System, is under question, isn't it?

MR. BURR: Are you still trying to organize the teachers in the local of the Seward School System, Mr. Swick?

MR. SWICK: No, sir.

MR. BURR: That is not one of your objectives?

MR. SWICK: Not at the present time, no, sir.

MR. BURR: Well, is it at a future date?

MR. SWICK: Perhaps, sir.

MR. BURR: Well, then I'm assuming that it's a fair statement that you believe they should be organized?

MR. SWICK: I believe they should have the opportunity to join any professional group, they please.

MR. BURR: Have you not tried to proselyte the teachers in the System at this time? Into joining? Let me rephrase it. Have you not solicited their membership?

MR. SWICK: No, sir.

MR. BURR: No? Why not?

MR. SWICK: We feel it would be unfair to the teachers under this administration to ask them to line up in a situation that would undoubtedly result in the same thing that has happened to the other AFT members.

MR. BURR: And that is what?

MR. SWICK: On, dismissals, forced resignations, leaving in disgust, you have their resignations on file, no doubt.

MR. BURR: What is the objective of the Teacher's Local of the AFT?

MR. SWICK: Which Teacher's Local, sir?

MR. BURR: What would you categorize — what would you say — I don't want you to categorize and be general — what would you say was the end objective of the organized AFT Local in Seward? What is the overall objective?

[289] MR. SWICK: The final objective or the immediate objective?

MR. BURR: The final objective.

MR. SWICK: Is to restore — we had several of course objectives which perhaps might even vary from time to time, but our immediate objective is to get substantial improvement in administrative personnel policies, as outlined on page 3 of our Open Letter.

MR. BURR: Do you consider the teachers if they were organized in this manner, should also have the right to strike, which is commonly recognized in labor groups?

MR. SWICK: That's a problem that I haven't — that I'm holding an open mind on like the School Board is on this hearing, and I'm going to reserve judgment on that, sir, for the time being.

MR. BURR: You have no opinion?

MR. SWICK: I know that school teachers have struck both under the AFT and under the NEA, at various places and times in our history. I note that there's one going on in New York right now.

MR. BURR: It's recently been called off, hasn't it?

MR. SWICK: I haven't seen that.

MR. BURR: Do you subscribe to this philosophy of organized labor amongst teachers?

MR. SWICK: The philosophy that teachers may join organized labor?

MR. BURR: And strike?

MR. SWICK: And strike, I told you I'm holding an open mind on that.

MR. BURR: Would you say that the American Federation of Teachers generally, as far as you know, subscribe to this as a privilege of a group?

MR. SWICK: I don't think our national charter prohibits the strike as an ultimate weapon. I don't know that it encourages it.

MR. BURR: It doesn't prohibit that?

MR. SWICK: No, I'm sure that it doesn't.

MR. BURR: You're not sure that you even subscribe to that if it were justified?

MR. SWICK: That's true.

MR. BURR: In your direct testimony, Mr. Walton, asked you if as far as you knew there was anything in Exhibit 7, Board's Exhibit 7, that was false and your answer was, according to my notes, that nothing within your knowledge was false. Do you remember that?

MR. SWICK: That's right, sir.

[290] MR. BURR: By that do you mean that there's a possibility that some of this information would be false, or inaccurate or incomplete?

MR. SWICK: This information is just as good as the word of the people who gave it to us directly.

MR. BURR: Is there any possibility that any of that information is not accurate and true?

MR. SWICK: Within the limits that we trust each other there is no possibility, no.

MR. BURR: And by we trust each other, you are speaking of the people from whom you obtained this information?

MR. SWICK: That is correct.

MR. BURR: Did you present these people as witnesses in your behalf in presenting these complaints to the Seward School Board?

MR. SWICK: Did we present these people?

MR. BURR: Yes.

MR. SWICK: To the Howard School Board?

MR. BURR: Or their statements. Yes. Witness Jesse Moore for instance.

MR. SWICK: Jesse Moore presented himself before the Seward School Board in a meeting I believe in January — quite extensive minutes on it, I believe. There was no American Federation of Teachers to support Jesse Moore at that time.

MR. BARR: Was Jesse Moore a member of the AFT?

MR. SWICK: He is not.

MR. BURR: Is the AFT looking out for the interest of anyone besides the members?

MR. SWICK: Only in a general way as to the well being of education in general.

MR. BURR: Jesse Moore as the custodian is contributing something to the education of the children of Seward?

MR. SWICK: He was at the time he was working here, yes, sir. If he wasn't, he shouldn't have been paid by the Seward School Board.

MR. BURR: So, as far as you know, all the information on Exhibit 7 was true, in every respect?

MR. SWICK: Yes, sir.

MR. BURR: I noticed in paragraph 1 of Exhibit 7, you make reference to the illegal non-retention of three teachers. Now these three teachers did in fact receive notices of non-retention from the School Board, did they not?

MR. SWICK: That is correct, sir.

[291] MR. BURR: And as a matter of fact, all three of these teachers were advised by the Seward School Board that the Board would present them with a Bill of Particulars as the law contemplated if they desired. Are you familiar with that?

MR. SWICK: I'm afraid you're mistaken sir, the letters that they received said that they could have a conference with the Superintendent — that is not a bill of particulars.

MR. BURR: They were not advised that they could get a bill of particulars, if they wanted?

MR. SWICK: Not in that letter.

MR. BURR: Do you know whether or not they were subsequently advised?

MR. SWICK: I have no way of knowing that.

MR. BURR: Did you ever ask them?

MR. SWICK: Certainly I asked them.

MR. BURR: Isn't it true that all three of these individuals waited until after the deadline for the new contracts, to bring to the attention of the school authorities that they believed that there had been some irregularity in notice of non-retention?

MR. SWICK: That's true, sir.

MR. BURR: Was this done at your request?

MR. SWICK: No, sir.

MR. BURR: Was it done at the request of the AFT local?

MR. SWICK: There was no AFT local at that time.

MR. BURR: How about the Seward District Teacher's Association?

MR. SWICK: I can't testify to that, sir.

MR. BURR: Who was it that first brought to the Board's attention the apparent irregularity in the notice of non-retention?

MR. SWICK: It was a committee of the Seward District Teacher's Association, the Grievance Committee?

MR. BURR: When was that Grievance Committee looking into this with reference to the deadline of the contracts?

MR. SWICK: It was formed and took action all on one day, on or about the day of that communication to the Board.

MR. BURR: Was that before or after the deadline for the contracts?

MR. SWICK: I believe it was after, sir.

[292] MR. BURR: All three of the teachers were subsequently and thereafter offered contracts, were they not?

MR. SWICK: There was a motion made on May 8th, I understand, to return those contracts. One of the teachers apparently must have got her contract because she taught this past year. I can't testify as to the other two, I've never seen their contracts — I know that there was some feet dragging the following week as there was the problem about actually getting the signed contracts to the teachers after the motion of the Board.

MR. BURR: You have heard testimony earlier in this hearing that three of the teachers were tendered the opportunity of contracts, haven't you? The opportunity of receiving contracts from the Board?

MR. SWICK: I don't know what that means. Tendered the opportunity.

MR. BURR: I believe that Mr. Fabricius stated that the Board subsequently did offer contracts to these teachers, the ones that didn't have positions already at that time. I believe one of the teachers had already secured another position.

MR. SWICK: Yes, I guess he said that.

MR. BURR: Well, do you have anything to the contary to rebut it?

MR. SWICK: What? That they did not get their contract?

MR. BURR: Yes. Or that they were tendered the contracts? Offered the contracts?

MR. SWICK: Actually delivered a written signed contract?

MR. BURR: Or offered a contract?

MR. SWICK: What type of offer, sir? Written, verbal or timely?

MR. BURR: Is there any requirement that it be in writing?

MR. SWICK: The requirement is that the contract be offered, not an offer of a contract.

MR. BURR: Well, are you telling me at this late date that these people, that there was another irregularity in the tendering of those contracts?

MR. SWICK: We discussed that with Mr. Howell on May 16th.

MR. BURR: Well, aren't you satisfied that the Board did all within their power and within reason to correct what they admitted to have been an irregularity?

MR. SWICK: Not quite, sir.

MR. BURR: What did they not do that they could have done?

MR. SWICK: In the matter of Deb Armstrong, the Board did not issue her a contract so she could then have resigned and kept her copy to show [293] that she left with a clean slate. The Board did, presumably again, the Board did, a note came over Mr. Fabricius' signature showing that at the February 16th meeting, Mrs. Armstrong had been re-elected. That's a very curious thing, she had already been refused to be hired on that same meeting night. So we have the two letters and they're totally contradictory. Hardly consistent with your contention that she was offered a contract.

MR. BURR: So you believe that they were not offered contracts?

MR. SWICK: I have reason to believe Mrs. Armstrong never got a contract.

MR. BURR: Is she teaching now?

MR. SWICK: As far as I know, she is, sir.

MR. BURR: Do you believe that regulations should be followed as they apply to the teachers of the School System?

MR. SWICK: Yes, sir.

MR. BURR: Were you familiar with the regulations that were in effect in the Spring of 1959?

MR. SWICK: Yes, sir.

MR. BURR: Which I have called and which Mr. Walton has called, the assumed regulations of the Seward School System. Were you familiar with those regulations in the Spring of '59?

MR. SWICK: We all had that book, yes, sir.

MR. BURR: It was distributed, wasn't it, Mr. Swick, to all the teachers?

MR. SWICK: I guess so.

MR. BURR: Did you read it in the spring of 1959?

MR. SWICK: Oh, yes.

MR. BURR: Do you believe that it applied to you?

MR. SWICK: Yes, sir.

MR. BURR: Do you believe that it was binding on you?

MR. WALTON: Objection — calls for legal conclusion — assumes whether or not they were ever adopted by the Board which hasn't yet been proved.

MR. BURR: Assuming that they were adopted — do you believe that these regulations were binding on you, Mr. Swick?

MR. SWICK: To the point of dismissal, you mean, sir?

MR. BURR: To the point that they applied to you as you read them — understood them?

[294] MR. SWICK: Yes.

MR. BURR: So, if it were established, Mr. Swick, that there was a deviation from any departure of facts, the latter of those regulations in the Spring of 1959 by Mr. Swick or Mr. Watts, by Mr. Watts and Mr. Blue, would it not be fair to state that the viola-

tion of those regulations was conduct which would be other than acceptable conduct of a teacher in the Seward System, if it was done willfully?

MR. SWICK: If it were done willfully and if it were clearly established, yes I believe I would say so.

MR. BURR: You were offered a contract in the Spring of 1959, Mr. Swick?

MR. SWICK: Yes, sir.

MR. BURR: And the contract signing time was postponed for a period of time thereafter because there was a teacher's pay bill under consideration?

MR. SWICK: I believe that's right, sir.

MR. BURR: And you received a letter from the Seward School Board, or perhaps from Mr. Fabricius, extending the time as I recall to the month of May, 1959, for the returning of the same contract — April, perhaps?

MR. SWICK: Yes, it was a mimeographed memo rather than a letter.

MR. BURR: And this document had a notation on it to the effect that it must be returned by a certain date to the school authorities in order to be validated. Is that correct?

MR. SWICK: That's correct.

MR. BURR: Did you return your contract?

MR. SWICK: Yes.

MR. BURR: When?

MR. SWICK: Sept. 8th.

MR. BURR: When did the contract require to be returned on this notation?

MR. SWICK: This notation? I think April 20th. The notation said April 10th.

MR. BURR: Did you return yours by April 10th?

MR. SWICK: No.

MR. BURR: Did you have any reason for not so doing?

MR. SWICK: Yes, sir. There was a lot of tension, I was very busy at that time, it slipped my mind.

[295] MR. BURR: Wouldn't it be more accurate to state, Mr. Swick, that as a member of the newly

formed AFT, you were testing — you were testing and tantalizing the School Board as to whether or not they were governing you or you were governing the School Board?

MR. SWICK: No, sir.

MR. BURR: That was not your intention?

MR. SWICK: No, sir.

MR. BURR: What was more important than submitting back your contract of employment for the year 1960?

MR. SWICK: You mean by a certain date, sir?

MR. BURR: I mean in accordance with the instructions from the Superintendent of Public Schools? Or don't you take orders from the Superintendent?

MR. SWICK: I wasn't sure they were his instructions.

MR. BURR: Whose did you think they were, Mr. Swick?

So you don't have any real reason for not having turned that contract in in accordance with the notation, at all, under September 1960?

MR. SWICK: I gave you my reasons.

MR. BURR: Did Mr. Watts turn his contract in?

MR. SWICK: I presume he did.

MR. BURR: Did Mr. Blue turn his contract in?

MR. SWICK: I believe he did.

MR. BURR: Did they wait until September 1960 to turn them in?

MR. SWICK: I don't know what their validation date is, sir.

MR. BURR: You know when they turned it in?

MR. SWICK: No, I don't.

MR. BURR: As a matter of fact, you were the only teacher in the whole Seward School System that waited until September to turn your contract in?

MR. SWICK: I can't testify to that, sir.

MR. BURR: If I were to say that's true, have you anything to rebut it?

MR. SWICK: No, sir.

MR. BURR: Did you think you had a job in September 1960 not having heretofore turned your contract in to the authorities?

[296] Let me rephrase it. In September 1960 when you presented yourself as you have testified earlier at the Grade School as I remember, did you think, were you of the opinion that you had a job for the year 1959-60 or 60 and 61, I'm sorry.

MR. SWICK: Yes, sir. I was prepared to go to work, yes, sir.

MR. BURR: Well did you seriously and conscientiously think that you had a job in view of the fact that you had not previously submitted your contract as required?

MR. SWICK: Well, there had been a couple of years before when my contract hadn't been submitted until oh on in the fall, October or November, this was well in advance of that date.

MR. BURR: Did those contracts also have a notation of validation date of April on them?

MR. SWICK: Not that I recall sir.

MR. BURR: You did see that notation of validation date on your contract, didn't you?

MR. SWICK: Only very casually.

MR. BURR: Did you make any effort to communicate with any member of the Seward School Board of the Superintendent in the summer of 1960 relative to your intentions to return to school in September 1960?

MR. SWICK: No, sir.

MR. BURR: Did you have an opportunity to?

MR. SWICK: Yes, sir.

MR. BURR: You did see them from time to time? But you made no mention of your intentions?

MR. SWICK: Of what?

MR. BURR: To come back to school?

MR. SWICK: To enjoy the benefits of my continuing contract?

MR. BURR: To come back to school in the Fall of 1960?

MR. SWICK: No, sir. The Continuing Contract Law supposes that.

MR. BURR: Have you read this law, Mr. Swick?

MR. SWICK: Yes, sir.

MR. BURR: And your lawyer has advised you that you had a contract without signing one?

[297] MR. SWICK: I believe that can be read into the law, yes.

MR. BURR: Did your lawyer tell you that?

MR. SWICK: I can't recall specifically whether he did or not.

MR. BURR: It is your opinion and you have the opinion that law so provides that you have a contract from year to year without the requirement of signed contract? Is that true?

MR. SWICK: Would you state that again, sir?

MR. BURR: You are of the opinion now and you have been for some period of time, that you have a contract of employment with the Seward School Board without regard to a written contract?

MR. SWICK: No, sir.

MR. BURR: Then you do believe it's necessary to sign a contract each year as the School Board has required?

MR. SWICK: Well, I always have.

MR. BURR: Do you believe that's necessary as a condition of employment?

MR. SWICK: That's a legal point, sir, I can't be examined on that.

MR. BURR: Let's not be modest Mr. Swick, you've given many legal opinions here already.

MR. WALTON: Mr. Casey, I'm going to have to — let me ask this — I don't like to object but this isn't really relative to the issue to have Mr. Burr to take this man's deposition that he's brought a law suit against the School Board — he knows all the answers — it isn't relative to this controversy. I really can't see.

MR. BURR: Well this has been gone into rather thoroughly on direct examination, Mr. Walton, and I'm doing nothing but cross examining him on your testimony. Even in a Court of Law that would be permissible.

MR. WALTON: You're beyond the scope of my direct.

MR. BURR: Well, thank you Judge, let's proceed.

MR. WALTON: I don't mind your antagonism and jocularity, but Mr. Casey, I don't believe that this goes to the witnesses and I do wish to

MR. CASEY: Are you objecting to this, Mr. Walton?

MR. WALTON: I was objecting there, secondarily to the sarcastic nature of the question — I think it's an attempt to incite the anger of the witness — it's a purely argumentative question, but my basic objection here is that this isn't relative to the controversy. I did not go into such detail questioning as to whether or not [298] this man thought he had fulfilled all the legal requirements to secure his rights under the Tenure Law. I can't see that it's relevant to the question of whether or not the Appellants were guilty of immoral conduct or violated any regulations.

MR. CASEY: You did make an objection, Mr. Walton?

MR. WALTON: Yes, sir. I object to this line of questioning as irrelevant — that's the nature of my objection.

MR. CASEY: Objection overruled, proceed.

MR. BURR: Mr. Swick, am I antagonizing you with this type of interregation?

MR. SWICK: No, sir.

MR. BURR: Have I irritated you?

MR. SWICK: No.

MR. BURR: Have I made you mad?

MR. SWICK: No.

MR. BURR: I don't mean to, if I have — accept my apologies.

You testified on direct examination that you circulated a petition for the formation of the American Federation Teachers, Seward Local?

MR. SWICK: Yes, sir.

MR. BURR: Did you personally carry this petition around?

MR. SWICK: I did, sir.

MR. BURR: Did you carry it during the school hours?

MR. SWICK: No, sir.

MR. BURR: After school hours?

MR. SWICK: I think it was the weekend, sir.

MR. BURR: You sure of this?

MR. SWICK: Yes, sir.

MR. BURR: You also testified on direct examination that you told — that you told Mr. Fabricius that he would have a chance to tell the Seward public the reasons for his actions?

MR. SWICK: That's right, sir.

MR. BURR: Now, was that — what was the date of that meeting that you were making reference to there?

MR. SWICK: The meeting coming up on May 8th.

MR. BURR: Was that a public meeting?

[299] MR. SWICK: Yes, sir, it was so advertised and there was considerable anticipation of it in the community.

MR. BURR: Who advertised this meeting?

MR. SWICK: The Seward School Board.

MR. BURR: It was not a regular meeting, was it?

MR. SWICK: I think the way it was described by Mr. Howell was that it was a regular meeting held at an irregular time in order to accommodate the Commencement program which would fall on the regular meeting night. I think that's the way it was told to me.

MR. BARR: You've known Mr. Fabricius since the fall of 1958 haven't you Mr. Swick?

MR. SWICK: Yes, sir.

MR. BURR: And during and after, well during the school year 1958-59 and up until the present time have you had an opportunity in your negotiations and your dealings with Mr. Swick, sufficiently as to form an opinion as to whether or not he has a good, bad or indifferent reputation for truth telling?

MR. SWICK: With Mr. Fabricius?

MR. BURR: Mr. Fabricius, yes.

MR. SWICK: My contacts with him have been extremely limited.

MR. BURR: Would you say you're not in a posi-

tion to give an opinion of his veracity, or his reputation for veracity?

MR. SWICK: Not unless you specify a particular statement and then I find that it is within my realm of knowledge, then I would testify.

MR. BURR: Based upon your contacts with Mr. Fabricius, professionally and otherwise, do you believe that Mr. Fabricius would give false testimony under oath?

MR. SWICK: I don't know him well enough sir, to testify on that.

MR. BURR: You have no opinion of this?

MR. SWICK: No, sir.

MR. BURR: I have no other questions.

MR. WALTON: May I redirect, sir?

MR. CASEY: Yes, go ahead.

MR. WALTON: Mr. Swick, I'm handing you now the Board's Exhibit 20. I believe Mr. Burr asked you if you had ever seen it before tonight and I believe your answer was no, was it not?

[300] MR. SWICK: That's true, sir.

MR. WALTON: Have you ever heard about this thing — whatever it is, we don't really know what it is — it hasn't been identified, but it appears to be a clipping out of a paper. Have you ever seen anything like this before, anywhere?

MR. SWICK: No, sir, I haven't.

MR. WALTON: Has anyone ever told you about this or anything similar to it.

MR. SWICK: No, sir. Not to even identify it — no paper, or date, or anything.

MR. WALTON: Do you know what Sentate Bill 141 is?

MR. SWICK: I believe that's what's commonly referred to as Teacher Tenure Bill, isn't it?

MR. WALTON: Of what year?

MR. SWICK: It must be the 1960 Act — I'm not sure. I judge from the item that the Act under which we are operating here tonight.

MR. WALTON: Are you prepared to say, categorically and incidentally, this is very difficult, Mr.

Chairman, to examine this witness on something that has not yet been identified. Perhaps the Board will be so kind as to identify it for us so we can talk about it?

MR. BURR: I plan to offer it at a later time, Mr. Walton, if the witness can identify it.

MR. WALTON: I see. Well, this says — may I ask this question? It says "Seward High School Friday, 7:30 PM." so I presume that it was intended to refer to this meeting. Is that what your witness will testify to among other things?

MR. BURR: Why don't we wait and find out? Unless you care to identify it for the record?

MR. WALTON: I can't — I've never seen it before.

MR. BURR: It appears to be signed by an organization that you are familiar with.

MR. WALTON: It appears to be signed not by an organization, Mr. Burr, but by quote Friend of The American Federation of Teachers" and I can advise the Board right now that I've inquired of my clients and they've never seen it before and they don't know what it is. Therefore, I'd appreciate it if you can tell me if it was published on or about this date. If you prefer not to, Mr. Burr, that of course, is your perrogative.

Apparently this thing may have been published in the paper. Now, Mr. Swick, are you prepared to tell this Board you don't know anything about the publication in any paper of Exhibit 20?

MR. SWICK: That is correct.

[301] MR. WALTON: Are you categorically prepared to state that you don't know how it was published, if it was published?

MR. SWICK: You mean who put it in?

MR. WALTON: Yes.

MR. SWICK: No, sir, I am prepared to state that I do not know who put it in.

MR. WALTON: Did you ever know that anything like this was ever going to be published?

MR. SWICK: No, sir.

MR. WALTON: Would you have ever permitted it to have been published with your knowledge, and your consent and your funds to pay for such a thing?

MR. SWICK: No, sir.

MR. WALTON: Mr. Swick, do you think that it's a good thing to have something like this published in advance of a meeting, such as this? I invite you to look at it. I mean to say would you place something like that in the newspaper for publication, in advance of this meeting?

MR. SWICK: No, sir, as I believe it tends to sensationalize a very serious hearing.

MR. WALTON: As a matter of fact, Mr. Swick, it does appear to have been published, does it not, by someone who would in fact tend to mock the hearing?

MR. SWICK: That's a possibility.

MR. WALTON: I invite you to examine it and I ask you in fact if that possibility does not occur to you?

MR. SWICK: Perhaps.

MR. WALTON: It is very likely, Mr. Swick, that this Exhibit 20, if it was published, was published not by a Friend of the American Federation of Teachers, but by someone, some person intent on destroying the effectiveness of this hearing?

MR. BURR: I want to register my objection for the record. There have been cross-examinations for 10 minutes at least on a document this man said at the very beginning that he couldn't identify. I don't know how immaterial, irrelevant and how far afield you can get, but this is just about the worse that you had yet.

MR. WALTON: Mr. Burr, this would never have arisen had you introduced it in the proper way. You even haven't identified it.

MR. BURR: The man said he couldn't identify it. I plan to introduce at a later time.

[302] MR. WALTON: Will you permit them to call this witness back and examine him at that time?

MR. BURR: You can call him whenever you want to if it's identified by him?

MR. WALTON: Mr. Casey, I believe, Mr. Burr

has made an objection. He objects to my question about this document.

MR. BURR: I object to continued examination of a document the man categorically denies any knowledge of. I submit it's improper direct examination, re-direct examination.

MR. WALTER: I'm certainly entitled to ask whether or not he might have had anything to do with it or know anything about it.

MR. BURR: You have asked that question.

MR. WALTON; And I'm entitled to pursue that line of questioning.

MR. BURR: Do you want to ask it again?

MR. WALTON; I'm asking — I'm pursing that line of questioning.

MR. BURR: Pursue or deny — go ahead then.

MR. WALTON: I take it you withdraw the objection?

MR. BURR: Yes, I'll withdraw it, Mr. Walton.

MR. WALTON: Thank you. Now, Mr. Swick, I think Mr. Burr has asked you if you're not beating dead horse, to use his language, in pursing your interest in this matter? As a matter of fact, Mr. Swick, if your right to reenstatement, and if the appellants rights to reenstatement as teachers are not vindicated, their teaching carrers and yours, will be very much in jeopardy, would they not?

MR. SWICK: I would say that they would be ended.

MR. WALTON: Why?

MR. SWICK: For the reasons that Mr. Fabricius has testified. That blacklisting not only has taken place, but it has been highly effective.

MR. WALTON: Mr. Swick, do you know whether or not the fact that you and possibly these appellants are non-retained, do you know whether or not that fact would impair your opportunity to secure employment as teachers in Alaska?

MR. SWICK: Mr. Fabricius own testimony names such as these go on blotters, they may even be submitted to organizations which would encourage legal action revocation of certificates, I don't know.

MR. WALTON: Has Mr. Fabricius ever indicated or anyone connected with this Board that yours or anyone else's teaching certificate might attempt to be revoked?

MR. SWICK: He's never told me that. I can't testify to that at this time.

[303] MR. WALTON: Did Mr. English at Seldovia, or anyone else at Seldovia, indicate toyou why the Superintendent's position might not be open to you? Other than the reasons you've given?

MR. SWICK: No, sir. In fact, we had a very satisfactory talk earlier in the summer, before the letter from Seward arrived.

MR. WALTON: Mr. Burr asked you a question about what the overall objective of AFT is. I believe you answered in terms of what the immediate objective of AFT was. Namely to get better relations between the teacher and the Board.

MR. SWICK: Yes, sir.

MR. WALTON: Would you now please answer his other question. What was the overall the long term objective of AFT?

MR. SWICK: Essentially the same as the NEA and the School Board's Association, and I Presume the local School Board, and many other conscientious persons interested in education, that is, to improve working conditions, which includes of course, increases of salary levels and they're so standard, they hardly bear repetition.

MR. WALTON: What are the significant differences, if any, say between the AFT and the SDFA?

MR. SWICK: In their goals I would say they are practically identical, so the method of operation is again identical, they are limited to the same rule books that other professional organizations are in dealing with our employing groups. However, we do not hesitate to call a spade a spade when the situation becomes necessary.

MR. WALTON: As a matter of fact the local units of AFT are exclusively restricted to teachers and not to administrators, are they not?

MR. SWICK: That's right, sir.

MR. WALTON: That is not true of the local units of the NEA, is it?

MR. SWICK: No, sir. The NEA does have a Class Room Teachers Association, which I understand Mr. Fabricius frowns on in this school.

MR. WALTON: No other questions.

MR. CASEY: He has no other questions. Do you have any other questions, Mr. Burr?

It is apparent that we are not going to finish this hearing tonight, it is practically 7 o'clock so we will adjourn this hearing until 1 PM tomorrow.

Hearing reconvened November 12, 1960 at 1:00 PM. Roll Call, Casey, present; Burr, present; Mrs. Skinner present and Mr. McRae present.

[304] CHAIRMAN CASEY: The meeting — the case of Mr. Blue and Mr. Watts adjourned last night, is reconvened. It's November 12th and the hour is 1:05 PM. Would you proceed, Mr. Walton?

MR. WALTON: Yes, sir. May we call Mr. Blue? Will you raise your right hand? Do you swear that the testimony you are about to give is the truth, nothing but the truth, so help you God?

MR. BLUE: I do.

MR. WALTON: Please be seated. Your full name, sir?

MR. BLUE: Walter B. Blue.

MR. WALTON: How old are you, sir?

MR. BLUE: Fifty.

MR. WALTON: What is your occupation?

MR. BLUE: Teacher.

MR. WALTON: Where do you live?

MR. BLUE: Seward.

MR. WALTON: Are you a family man?

MR. BLUE: Yes, sir. I have a wife and one child.

MR. WALTON: What is your occupation?

MR. BLUE: School teacher, presently in the state of doubtful employment.

MR. WALTON: How long have you been a school teacher?

MR. BLUE: Fifteen years.

MR. WALTON: How long have you lived in Seward?

MR. BLUE: Seward has always been my residence all my life.

MR. WALTON: How long have you taught in Seward?

MR. BLUE: Fifteen years.

MR. WALTON: I believe you have stated your educational background, sir?

MR. BLUE: I believe I have, sir.

MR. WALTON: You have 1 or 2 degrees?

MR. BLUE: One degree.

MR. WALTON: You received it from?

MR. BLUE: Washington State University.

[305] MR. WALTON: And the year?

MR. BLUE: The year was 1932 of graduation, I didn't apply for the degree until a few years later. I don't remember the year.

MR. WALTON: And the subject was what?

MR. BLUE: My major was English.

MR. WALTON: Mr. Blue, you are one of the appellants, are you not?

MR. BLUE: Yes, sir.

MR. WALTON: And you have been charged by this School Board with, among other things, of assisting with the distribution and printing of an Open Letter, being Board's Exhibit 7.

MR. BLUE: Yes, sir.

MR. WALTON: You have a copy of the Board's Exhibit 7, do you?

MR. BLUE: Yes, sir, I do have.

MR. WALTON: And you have also been charged, have you not, with circulating distorted and misleading statements contained in that Open Letter?

MR. BLUE: Yes, sir.

MR. WALTON: Please direct your attention to page 2 of the Open Letter and particularly the second paragraph following paragraph 10, wherein some reference is made to efforts on behalf of a group of teachers to correct certain acts. Do you see the paragraph, sir?

MR. BLUE: Yes, sir, I do.

MR. WALTON: You have heard Mr. Swick's testimony in regards to that paragraph, have you not?

MR. BLUE: Yes, sir, I have.

MR. WALTON: Is there anything in particular — if I were to have asked you the same question that I asked Mr. Swick with regard to what efforts were taken and which are therein referred to, would your answer have been substantially the same?

MR. BLUE: Yes, sir, it would have.

MR. WALTON: Is there any particular on which you feel you can furnish the Board with additional information that Mr. Swick was unable to furnish? I direct your attention to the subject of the May 8th meeting.

MR. BLUE: The May 8th meeting was not fully covered because Mr. Swick, of course was not in attendance, and I was. And at this meeting, Attorney Pat Ervine was our counsel.

MR. WALTON: By our, you are referring to whom?

[306] MR. BLUE: The American Federation of Teachers. And his instructions were three, One, to do what he could to secure the non-retention contracts, and two, to assist in the matter of the educational extension requirements. These two objects were accomplished. Now, at the time, Mr. Ervine had in his possession, not these documents, but a document or notes from which this was compiled, that covered all the items in here with the exception of two which had not yet occurred.

MR. WALTON: Which were what?

MR. BLUE: The matter of Mr. Swick's being — his position being declared inexplicably vacant, and the matter of Mr. Smith's alleged demotion. The third one was another instruction. There had been a great deal of discussion within the union group on the matters contained in this letter and others, but they're perhaps not pertinent. We had attempted throughout our existence to get a communication with the Board. This in fact, is the key to the whole thing.

Securing some sort of communication of getting our grievances to them, having them discussed, finding out whether or not our grievances were valid, getting adjustments if adjustments were properly forthcoming. Mr. Ervine had this information with him, but had deliberately withheld this information from the public. During this period of time right towards the end of school, as a matter of fact, any time in the school year, we didn't feel that we wanted to make these things public, but rather that if communications could be established, most of them could be solved rather readily.

MR. WALTON: What were your instructions to Mr. Ervine with respect to this particular information and these particular grievances?

MR. BLUE: Our instructions to Mr. Ervine were to try to get these materials to the School Board for consideration so that the problem could be resolved.

MR. WALTON: Now, after the May 8th meeting, were there any such attempts made by the AFT through its attorney, Mr. Ervine?

MR. BLUE: Yes, there was.

MR. WALTON: Well, explain it.

MR. BLUE: Mr. Ervine spoke to the Board requesting them, stating substantially what I have said, you understand that during this meeting, several people in the audience had made mention of what they called a Bill of Particulars, and even Mr. Fabricius made reference to this Bill of Particulars, and he even asked that it be brought out, but we didn't think it a proper thing to expose it to the public until every avenue had been exhausted for communication. So we asked him to try to get to the Board from some seven steps or so, and so he did, he approahced the Board and said this problem can be easily resolved, gentlemen, if we come together and meet in private briefly. And the Board, this Board here with the exception I believe of Burke and Mrs. Skinner, the other members, did not respond to this question. I think the question was asked more than once. I don't remember how many times.

[307] MR. WALTON: When Mr. Ervine asked this question, did he make it clear what he was referring to? When he asked if the Board would meet with him in a private conference?

MR. BLUE: Well, this was his instructions, and he had the information, I was sitting in the front row, he approached the Board and talked to them I think quietly.

MR. WALTON: He requested to meet with the Board in private and discuss the matters set forth in the Open Letter?

MR. BLUE: Exactly.

MR. WALTON: And his request was ignored?

MR. BLUE: His request was ignored.

MR. WALTON: Now, with respect to the matters set forth in the Open Letter itself which are alleged by the Board to being false, distorted and misleading, I would like to ask you some specific questions, but I wish to avoid repetition of earlier testimony when possible. Is there anything with respect to Paragraph No. 1 which you can add to what has previously been testified to? If not,

MR. BLUE: No, sir, there is not.

MR. WALTON: By that answer you imply that there is nothing to your knowledge, there is nothing in paragraph 1 that is false, distorted or misleading?

MR. BLUE: I don't believe there is, sir.

MR. WALTON: With respect to Paragraph #2 of the Open Letter regarding tension and friction, is there anything which you can add to the testimony previously elicited?

MR. BLUE: I believe I can, sir.

MR. WALTON: Please do.

MR. BLUE: Matters of tension, friction, have already been attested to, I believe by Mr. Fabricius. I believe most of us recognize that this thing existed. On the other hand, it's a difficult thing to describe precisely what tension and friction is, it's a sort of subjective judgment to the place to that I believe created this feeling on the part of the faculty judgment. This is rather a long story. In the beginning

of the year, prior to Mr. Fabricius' coming here, there was some small talk going around about dissatisfaction with the previous administration and that a man had been hired who was very firm in his discipline. When I heard this story, I thought well, it's all to the good. I personally did not regard the previous administration as being lax, but we were all in favor of good discipline, so this was a positive thing. So then I attempted to, inspite of the little things I heard, ignore them, because you can't prejudge a man. And then when school started, he made an announcement of his policies, most of them were I think, acceptable. But, almost immediately, a very good, a seemingly very good teacher, very popular teacher, very capable one, was discharged — I am referring to Jack Condor. [308] Since he stated that he was a firm man — it seemed that the discharge of Mr. Condor was something that could have been handled administratively without sacrificing a good man to the system. Now, I think, that immediately, whether or not they knew all of the details surrounding this, that it created a feeling among the teachers of "who's next". So this perhaps was the beginning of the feeling friction and tension among teachers and I assume that the youngsters who had known the work of Mr. Condor, also had a feeling of resentment. It's probably the first point in which friction and tension were noted. So as things went along for a while, and there was a meeting in January, 1960 I believe it was

MR. WALTON: It would be in January, 1959, would it not?

MR. BLUE: If there was — there was one in both of those — let me clarify my point. Oh that was the meeting in which Mr. Fabricius made reference in this room to a rumor which was reported that teachers were out to get him — to buy up his — no it wasn't this room, it was the room down the hall — in which he made reference to a rumor that teachers were out to buy up his contract. And I was quite surprised at this as I had not heard this rumor at any time and wondered what it meant. It seemed like a

very strange thing to me. My impression was that maybe it was contrived, I didn't know, the thought crossed my mind that it was something that he's thought out himself, because if a man is doing a competent job, I'm sure that Mr. Fabricius felt that he was, there would be no reason for anyone to get him. And if he were not, it was possible for the Board if it saw fit to discharge him and buying up the contract. So it seemed to me, to be rather a ridiculous type of rumor. I think that Mr. Fabricius attributed this to having originated with the teachers, but as I say I had never heard of it, nor had I heard it discussed, so here again, I wondered just why this kind of thinking prevailed. Seemed rather strange to me, not strictly rational, but you understand, not necessarily otherwise. At this meeting we heard that there had been a similar meeting over at the Grade School which was considerably more explosive in its character, but of course, I didn't attend that meeting and this I believe was the main item of the meeting. And I think when you are accused, or when a group is accused of circulating a false rumor, it tends to generate a certain degree of tension and a certain degree of friction.

MR. WALTON: Did it in fact, in this case?

MR. BLUE: I feel certain that many of us began to be wary of this thing, being accused falsely of things that were not so, yes.

MR. WALTON: Again, I do not wish to belabor this point, I don't want to induce repetitious testimony, but is there any other example in particular that you wish to produce in support of the allegations in paragraph 2 of Board's Exhibit 7?

MR. BLUE: Paragraph 2 — tension and friction. Yes, sir, I believe there were other elements in this entire complex. Over the year 1959 — 1958-59, the first year of Mr. Fabricius' tenure here, a number of occurrences [309] came about, bulletins, and introduction of new rules and so forth, which I think, gradually built up this kind of tension which is referred to here. First of all, there had been the item to which

I referred, the discharge of Mr. Condor, which we could not understand. Then following that, right at the beginning of the year, I think it's in the second or third week of September, we have Student Body Elections. It's part of the process of attempting to teach democracy on the sort of classrooms level, of holding caucases and so froth. The Student Body Election was held, the student body has its constitution and bylaws by which it goes, and from year to year, they run into problems and then they have the opportunity to change or revise this by practice and by experience. This particular election in the Fall of 1959, the Student Body election was in the process of being carried out and they had come to the point of counting votes. And it was announced that 1 of the two candidates for president of the Student Body had the election by a majority of 1. So the students hastily paid their student body dues which made them eligible to vote, cast their votes and then the election went to the other students. When this was reported to Mr. Fabricius, he said to me, "this stinks" and then he ordered a re-election, which it happens, came out the other way. In other words, he was administratively contravening the elective process of the students, such as it was. Now this is a matter of purely opinion, I thought this was an opportunity for these people further to practice this thing that had been going on and had been developing for some years.

MR. WALTON; What thing?

MR. BLUE: This business of conducting an election and learning from their mistakes. As I say, he arbitrarily ordered this re-election — I suppose it was within his authority, but I thought it was an opportunity for these youngsters to learn more about the process about democracy. Now this is purely a personal impression, you understand.

MR. WALTON: Did this result in any tension among the pupils or friction among the teachers?

MR. BURR: Objection, it's all his opinion.

MR. WALTON: Mr. Burr, I won't argue — I would

like a ruling. Excuse me, to expedite matters, I will withdraw the question. What effect, if any, upon the students did this decision have?

MR. BURR: Same objection, but go ahead and answer it.

MR. BLUE: I did not poll the students on this, nor did I talk with them about it, so I don't know what the effect on the students was.

MR. WALTON: Very well.

MR. BLUE: I know what the effect was on myself. I had been supervising these things for a number of years — that's some modest accomplishment, I suppose. I felt that he had taken the matter out of my hands. That was all right, I made no objection to it. I didn't feel especially happy over it.

[310] MR. WALTON: Now, Mr. Blue.

MR. BLUE: Yes, sir.

MR. WALTON: Is there any other detail or particular which has not been testified to, but which you feel the Board should know about to support that same paragraph?

MR. BLUE: Yes, sir. There were regulations introduced during, I believe, it was 1959, which on the face of them were pretty much acceptable. One of them was the rule against smoking in the building, which is a rather standard thing, and I don't think we can make any particular brief for smoking as a desirable habit. Now this rule, in its effect, made it not possible for teachers to smoke in the building at any time during their duty day, with the exception of a period of 15 or 20 minutes during the noon hour when they might be in school. Mr. Fabricius own comment on this rule to the Board was, there may be some grumbling about this.

MR. WALTON: Now do you know this was his comment?

MR. BLUE: I believe from having seen the School Board minutes, sir. Now, I didn't hear any grumbling about it. I heard some comment about it and I had a reaction to it myself. As I say, I make no brief for smoking, this is something that had been permitted

previously and now this rather restrictive rule was passed. The thing about it that probably created a feeling of friction was, that here was an arbitrary rule that in its effect seemed to regard teachers as so irresponsible that they had to be reminded about the discretion of such matters.

MR. WALTON: Specifically, what was the regulation and rule?

MR. BLUE: There shall be no smoking in building except for the custodians who are permitted to smoke in the boiler room, teachers could not smoke in the school building during the duty day with the exception of about 15 minutes or so during their noon hour when they were immune to it.

MR. WALTON: Duty day is when?

MR. BLUE: From 8:30 in the morning until 4:20 in the afternoon.

MR. WALTON: Anything else with respect to paragraph 2.

MR. BLUE: Yes, relative to the duty day. The duty day was extended from what it had been to 4:20 in the afternoon. And also there was a period of time during which the noon hour was modified so that it gave the effect of a little more time in school, adding perhaps some 20-25 minutes to the duty day. Here again, on the face of it, superficial, there was no objection to this, as far as the time element was concconcerned because teachers customarily stay after school, often at their instance to instruct or help youngsters, or at parent conferences, this issue was revised, I believe. Or even sometimes to do work and also they sometimes had other additional duties upon them beyond the duty day, maybe in the evening, and there was no objection to this, this was part of the pattern of teaching. This is understood [311] before you start. But there are times, many times in fact during the school year when at 4 o'clock there is no particular need to remain. So the net result of it was that teachers had to wait for what they thought or felt was an additional 15 minutes. So they did, and I don't think anyone complained about it, they felt that

here again teachers had to be regulated on matters of that sort. They had not personal discretion in the matter. The thing about these 2 rules which in itself was nothing, seemed not to recognize the discretion of the interest of teachers generally. It seemed arbitary — an arbitrary way of treating professional people who had invested time and effort and so forth in the school over a period of years.

MR. WALTON: I take it that your comments to the attention of the public in paragraph 2, the purpose of the AFT was not so much to complain about the rules and regulations, but rather to point out the friction and tension which you have referred to?

MR. BLUE: Precisely.

MR. WALTON: Now with respect to paragraph 3 of the Open Letter pertaining to Fire Drill regulations. Can you furnish the Board with any information which it does not already have?

MR. BLUE: I think not, sir.

MR. WALTON: The same question with respect to paragraph 4 concerning Jesse Moore?

MR. BLUE: I can't add to that, sir — it's all in the testimony.

MR. WALTON: With respect to paragraph 5 of the Open Letter, did you yourself ever hear Mr. Fabricius say the things there attributed to him or there when he said it?

MR. BLUE: The first part where he threatened to get 1/3 of the faculty, I never first-hand, no, sir, and I have formerly testified to that.

MR. WALTON: Now, with respect to the second or third sentence — with respect to the questions the teachers have allegedly raised — do you know whether or not, any teachers in fact did ask quote how could one man, a stranger coming in town have the right to tamper with the livelihood of teachers, taxpayers, property owners and upset a school system in a single year's time?

MR. BLUE: Yes, sir, I had heard comments to that general effect several times. I can point only to my own — that is I can specifically point out my

own — that is my own reaction. I have previously testified to that in the first hearing. Miss Barber also stated that to me and I believe there's a letter to that effect on Exhibit.

MR. WALTON: And who is Miss Barber?

MR. BLUE: Miss Barber was a biology teacher here during the year 1958-59.

[312] MR. WALTON: Do you know where Miss Barber is now?

MR. BLUE: I believe sir that she is at Unga, Alaska.

MR. WALTON: Do you happen to know why there's any particular reason why she's not teaching here?

MR. BLUE: Yes, sir. She left here of her own volition on a sort of missionary thing. She said to me that she didn't care to continue teaching here, but this was not the reason for her leaving.

MR. WALTON: Is there anything particular which you on your own behalf, or on behalf of the AFT can state in substantiation of the last sentence of paragraph 5 of the Open Letter? If not

MR. BLUE: Relative to the property and so forth, you mean?

MR. WALTON: Yes. Is there any information that you can furnish the Board at this time that they do not already have.

MR. BLUE: I don't think that that has been specified. I think there were some 18 property owners on the faculty at the time early in 1958-59. Now, I think there's something like 5 of them.

MR. WALTON: Five of them what?

MR. BLUE: Five property owners.

MR. WALTON: Doing what?

MR. BLUE: Well, teaching in the school system.

MR. WALTON: You mean of the teachers in the Seward Public Schools at the commencement of school year 1958, in your opinion there were 18 home owners here in Seward?

MR. BLUE: Yes, sir.

MR. WALTON: And about that number, there are only 5 today, still teaching?

MR. BLUE: To the best of my knowledge, sir. Of that original group, I don't know if any of the newer ones have bought homes or not.

MR. WALTON: Can you furnish the Board with any information that it does not already have with respect to paragraph 6 of the Open Letter?

MR. BLUE: As to the provoking of an outstanding teacher — there seems to be a violation — this has been commented on here, I don't think I can add anything to that.

MR. WALTON: With respect to paragraph 7 of the Open Letter referring to alleged dictatorial treatment of teachers, etc. Can you furnish the Board with any additional information that they do not have?

MR. BLUE: This alleged dictatorial treatment — I think I treated in part. I believe this ties up with the tension that has already been spoken of [313] and I think that already indicates a certain amount of dictorial treatment. There were elements throughout the school that seemed to be dictatorial, or perhaps somewhat ironical, or if not that, at least hardly proper on aprofessional level in the school. There was the matter for example of the public address system, which is not only a public address system, but a listening device.

MR. WALTON: What are you referring to?

MR. BLUE: It's the public address sytem which you installed in the school in 1959 — early in 1959, and it's for the ostensible purpose of making announcements throughout the school. The device also is one which makes it possible to monitor any part of the building at any time from the office. And it's supposed not to be audible during the time that it is monitoring. This was stated to me by the technician who installed the system. I don't know anything about it to my own knowledge. But I have had this experience — sometimes a slight hiss will come over the system — very faint, like a radio turned on very very low, and when this would happen, when no announcement would be forthcoming, youngsters in my classes would point up to this thing and make remarks

about it — like big brother is watching you and reference to George Alwell. They were aware that this was a sort of eavesdropping, that eavesdropping was possible, that monitoring was possible. I don't know of anything in the classroom that couldn't be heard, but when you feel that you're being eavesdropped upon, I think it withdraws the feeling of spontaneity in teaching and I don't know whether it was so used or not. This is a feeling that it engendered.

MR. WALTON: You're talking — you say that it did engender that feeling among, I think, of the other teachers in that school system?

MR. BLUE: It did to me, I've heard others comment to the same effect, yes, sir.

MR. WALTON: Other teachers have complained about it?

MR. BLUE: No one has made a formal complaint about it, no, sir.

MR. WALTON: I mean to say, have you heard other teachers complain about it?

MR. BLUE: Yes, I have.

MR. WALTON: Apparently other teachers the members of AFT made complaints without going through channels?

MR. BLUE: I don't know that they made complaints about it — this was one of these things. Why should you object to having your class overheard? Well, really, there's no objection — things could be taken out of context. That there was a lack of confidence and I think a lack of confidence in the administration was growing. Then to my fear that this was — could be used in an oppressive fashion — I didn't say that it would be, but it could be — it doesn't lead to confidence.

MR. WALTON: Did it in fact engender that feeling in teachers?

[314] MR. BLUE: I know that it did in me. I didn't enjoy it. I didn't feel that I should complain about it, I didn't mind it.

MR. WALTON: Do you know whether that feeling was engendered in other teachers?

MR. BURR: Object, calls for a conclusion.

MR. WALTON: I'll withdraw that question and ask you another question. Have any other teachers advised you, or have you heard other teachers state that it engendered that feeling in them?

MR. BLUE: Yes, sir.

MR. WALTON: Now, just a moment. I believe there's an objection, Mr. Casey, I would appreciate a ruling.

MR. CASEY: Will you restate that question, Mr. Walton?

MR. WALTON: Yes, sir. I will restate it sir, and I will attempt to restate in an even more acceptable form with your indulgence. Do you know, did any teachers ever indicate to you what reaction was engendered in them by this monitoring system?

MR. BLUE: Yes, sir.

MR. WALTON: Now, before you answer Mr. Casey would like to rule.

MR. BURR: Well, answer him.

MR. WALTON: Well, all right, what did they say?

MR. BLUE: I heard one teacher make the comment

MR. BURR: Before you start telling what one teacher said, I'd like to know who it was, if we're going to insist on interjecting this rank hearsay, I'd like to know who it was and if that teacher's available for examination. And if she is, or he is, I should like to have that teacher called as a witness in lieu of having this recitation secondhand.

MR. WALTON: What was the teacher's name, please, sir?

MR. BLUE: Mr. Watts made one comment on it to me.

MR. WALTON: Anyone else?

MR. BLUE: I heard Mrs. Lowell speak of it also.

MR. WALTON: Do you know where Mrs. Lowell is?

MR. BLUE: She's not in town — I believe she's in New York at the moment.

MR. BURR: I'm going to object to the statement

of Mrs. Lowell, it's obviously hearsay. Hearsay of such a character that I feel that even the administrative board should refuse to entertain it.

[315] MR. WALTON: Mr. Casey, the purpose of my question is not just to prove the truth of what Mrs. Lowell might have told Mr. Blue, but rather, this is the issue, rather was the Open Letter irresponsibly drafted, in fact were there statements, the basis of which the letter was drafted. The question is could — one of the questions in this controversy is were the statements in this open letter capable of being substantiated? I now ask Mr. Blue, in fact, what members of the AFT were told to demonstrate that these allegations were capable of being substantiated. At least by the statements of other teachers. Mr. Burr has objected, apparently on the grounds of hearsay. I submit that strict rules observance are not applicable here. The Board has already realized that and I think Mr. Burr would request a ruling.

MR. BURR: Let me withdraw the objection. That would make it easier. Mr. Casey, let me withdraw the objection.

MR. WALTON: Can you answer the question, sir?

MR. BLUE: Yes. She made reference to it and to something that she had done to the speaker and listening device — that she had put something on it, I don't remember if it was a big pair of ears, or something of that nature.

MR. BURR: I don't know that this elaboration is required, Mr. Walton. The complaint was made, I have no objection to that. He recited this second handed, let's not elaborate — unless we're going to bring this witness back for examination.

MR. WALTON: Now, Mr. Blue, is there anything which you can add to the testimony which has already been elicited with respect to paragraph 8 of the Open Letter pertaining to Mr. Smith. If there's nothing new which you can add, please advise the Board. If there is anything new you can add, please do so.

MR. BLUE: It's been testified to before, it's in the record rather completely that is, the first hearing, and it's all been referred to in this one.

MR. WALTON: With respect to paragraph 9 of the Open Letter, sir, is there any information which you can furnish this Board

MR. CASEY: Excuse me, Mr. Walton — Mr. Blue could you talk a little louder, the secretaries can't hear you.

MR. BLUE: Yes, sir, I'll try to.

MR. WALTON: Is there anything new that you can add to the testimony which has previously been elicited with respect to paragraph 9 of the Open Letter?

MR. BLUE: It's been covered in the original hearing rather thoroughly and Mr. Fabricius made a rebuttal to it already in this testimony, I think it's completely covered, sir.

MR. WALTON: Is there anything with respect to Mr. Fabricius testimony in this hearing which you comment on.

[316] MR. BLUE: I could just put out that Mr. Fabricius said this was a matter for administrative judgment, if I remember correctly, also that he had consulted Mrs. Lowell who was the Drama teacher about it, and I believe she stated that she did not have sufficient material or didn't want to attend the festival or something like that. Now, I suppose, that Mr. Fabricius generally is right in his statements to that effect, but teachers are interested in schools and their activities. That's what teachers are for. They want to know what goes on in the schools, what the school is going to do, we feel that information should be at least made available to the teachers. It was not our decision, I grant, without argument, but there had been a great deal in Drama before in this same thing. When it was brought to my attention, I'd heard nothing about it and I wanted to find out. Since Mr. Condor previously had been associated with the dramatic activity and attended the previous Drama Festival with some distinction, I thought it should be continued, but I said nothing to the Superintendent about it.

MR. WALTON: Why not?

MR. BLUE: Pretty largely because I'm a diffident

person by nature for one thing, and in the second place because the matter of communication was and hadn't been an easy thing to accomplish with Mr. Fabricius shortly after his coming here. And I believe that other teachers perhaps even less diffident than myself, felt that Mr. Fabricius was very difficult to exchange ideas with. I know personally I approached him only when I had business to do so. Because I had heard of cases where — and I knew of cases where teachers were rather harshly handled and I wanted to avoid that.

MR. WALTON: I believe, Mr. Blue that the Board's attorney will request the Board to include in its record the proceedings of the April 8th hearing. Are you prepared to let the testimony on that hearing with respect to paragraph 9 stand in this hearing if it's agreeable to the Board?

MR. BLUE: I'm not quite certain that I understand your question, Mr. Walton.

MR. WALTON: Mr. Blue, I want to avoid unnecessary repetition and prolongation of this hearing, if possible. You have in the April 8th hearing, I believe, testified to the matters pertaining in paragraph 9, have you not?

MR. BLUE: Yes, sir.

MR. WALTON: Are you prepared at this hearing, while under oath, to reaffirm all the matters which you there stated?

MR. BLUE: Yes, sir.

MR. WALTON: And if the Board is agreeable to accepting that transcript in evidence as part of the record in this case, are you prepared today to let that be your testimony with respect to paragraph 9?

MR. BLUE: Yes, sir, I am.

[317] MR. WALTON: Can you furnish the Board, sir, with any information that it does not already have with respect to paragraph 10 of the Open Letter?

MR. BLUE: I cannot add further to that, no, sir.

MR. BURR: I didn't hear your statement?

MR. BLUE: I cannot add further to that.

MR. WALTON: You have, sir, also been charged

by this Board as having participated in the circulation of a petition for the recall of School Board members on charges that could not be substantiated and which were allegedly false.

MR. BLUE: I have, sir.

MR. WALTON: You have heard Mr. Swick's testimony with respect to those?

MR. BLUE: Yes, sir, I have.

MR. WALTON: Had the questions which I posed to Mr. Swick, been posed to you, sir, would your answers be substantially the same?

MR. BLUE: Yes, sir, they would.

MR. WALTON: Perhaps, Mr. Burr, we can stipulate to that for the record?

MR. BURR: For the record I'll accept your stipulation.

Also accept the stipulation that your proposal that the entire — I should like to request that the entire transcript of the past hearing be accepted, including Mr. Blue's and Mr. Watts' testimony. And should also like for the record to state that you also waive your objections as earlier raised to the effect that it was not under oath. If it is to be adopted, I'm assuming

MR. WALTON: Well —

MR. BURR: I don't know if that would add or detract anything to the testimony.

MR. WALTON: Mr. Burr and Mr. Casey. Our position on that is this, and I think we're agreed, that we cannot very well stipulate that those matters that were testified to were testified to under oath, because they weren't. We are agreeable however to letting that be part of the record so that this Board may consider it for whatever it is worth. Isn't that really sufficient?

MR. BURR: Together with all the other witnesses who appeared in the prior proceeding.

MR. WALTON: We are agreeable to permitting the Board to consider that transcript in its determination.

MR. BURR: In its entirety?

[318] MR. WALTON: Yes, sir.

MR. BURR: I would like to have it go forward as an exhibit as I have earlier indicated.

MR. WALTON: No objection, sir.

Mr. Blue, you have also been charged by this Board by having engaged in clandestine activities, can you state, sir, whether or not that is truthful?

MR. BLUE: I believe there was some sort of definition of the term clandestine. As I understand it, it means both secret and underhanded, or designed for the purpose of doing wrong, something wrong. If that is the case, I have never attended any clandestine meetings. If a clandestine meeting is merely a secret meeting, then of course I, or a meeting for a specialized group, I of course have attended many of them.

MR. WALTON: There was earlier in this hearing, sir, some testimony, I believe with one by Mr. Fabricius with respect to a conversation had by you and Mr. Poling concerning yourself. Can you please refresh the Board as to what you understood Mr. Fabricius to have said, and then would you like to comment on the same?

MR. BLUE: Mr. Walton, if you will remember, I was absent from the meeting for a period, and that must have been the time when that testimony was given. I have seen it, I'm not sure that my memory is clear on it. Perhaps that portion of — or shall I just go ahead generally as I remember it?

MR. WALTON: Well, have you been advised as to what Mr. Fabricius has testified with respect to your alleged conversation with Mr. Poling?

MR. BLUE: Yes, sir, I have.

MR. WALTON: Would you like to comment on it.

MR. BLUE: Yes, sir. As I remember this comment, and of course this may be subject to a slight misstatement, Mr. Fabricius said that he did have a conversation with Mr. Poling, referring back to the Spring of 1959, at which Mr. Poling alleged that I had said something to the effect that we had heard about

him before he came here, and that we wouldn't be able to work with him, and therefore we were going to attempt to get him or have him removed or something like this.

MR. WALTON: We, referring to whom?

MR. BLUE: Well — no, I think the word was they, not we.

MR. WALTON: Is there any — did you in fact have such a conversation with Mr. Poling?

MR. BLUE: I had a conversation with Mr. Poling but the substance of the statement is obviously absurd, and impossible.

MR. WALTON: Where did you have this conversation and when?

[319] MR. BLUE: I had a conversation with Mr. Poling at a meeting in the Civic Center here in Seward, I believe it was May the 20th

MR. WALTON: What year?

MR. BLUE: 1959

MR. WALTON: Who was present?

MR. BLUE: This was a public meeting to which the School Board and the Administration were invited to discuss their grievances.

MR. WALTON: Did anyone overhear your conversation to your knowledge?

MR. BLUE: With Mr. Poling? I don't know — possibly there were members present who did — there was nothing secret about them.

MR. WALTON: You don't know any of them?

MR. BLUE: Oh, Mr. Swick was there, Mrs. Winninghoff was there, Mr. Watts was there. A fairly good sized segment of the town. The School Board was not there nor were the administrators.

MR. WALTON: How long did this conversation last?

MR. BLUE: Oh, intermittently, perhaps we exchanged words amounting in total to three or four minutes.

MR. WALTON: Very well. Now what — was anything stated during this conversation such as that which has been ascribed to you?

MR. BLUE: No, sir. I wanted to complete the comment. If Mr. Poling said I, for example, had any such intention, prior to Mr. Fabricius' coming, it was utterly impossible because I wasn't here during the summer of 1958.

MR. WALTON: Where were you?

MR. BLUE: Shortly after school was out, in the month of May, I went out to Colorado to attend school and I didn't return to Seward until two days before school started and I don't believe I met Mr. Fabricius personally until the first day of school. So, obviously, I couldn't possibly have entertained such an idea.

MR. WALTON: In circulating — did you, sir, have any part in the circulation around to members of the public, of the open letter, Board's Exhibit 7?

MR. BLUE: Yes, sir.

MR. WALTON: In doing so, you yourself — or have you ever felt that such activity was immoral and brought disagrace upon you or the teaching profession?

MR. BLUE: No, sir. I felt that there was a moral obligation involved in the matter of making this thing public.

MR. WALTON: Will you explain that?

[320] MR. BLUE: In my function as a teacher of Social Studies, I have the responsibility of teaching such things as freedom of speech, freedom of in general, the American tradition of democracy. As a matter of fact, in becoming involved in the whole teacher's controversy, this underlay the entire motivation for my involving myself at all. If I am to teach these things to students, I believe it is my obligation to practice what I preach, if I possibly can. Ordinarily I have not become involved in controversies, but when I saw the 4 non-retained teachers abandoned, without respect to their rights, as I understood it, this was back in the Seward District Teachers Association, I had to make a decision about moral responsibility. Should I shrug my shoulders, laugh it off, well it didn't effect me personally. Or did I have an obliga-

tion to do what I thought was necessary to help protect fellow members of the profession. So I had to make a decision, like it or not. The reason I made this decision was not to please myself, because I don't enjoy controversies. I have not enjoyed this controversy. But how can I teach these values to my students, assuming that I am able to do so, if I refuse to shoulder the responsibility or if my fellow teachers, or my fellow union members refuse to shoulder each responsibility when it is thrust upon us. I believe that young people when they see a teacher whom they often may tend to set up as a pattern, suddenly not acting according to the way the think you should go, then you lose your teaching effectiveness, and as a result, you can't do the job best that you're supposed to do. So I felt that I owed this to the teaching profession generally. I thought that we as AFT members, and SDTA members owed this to the teaching profession generally, to try to correct the things that were going on in our school which we did not think were in the democratic tradition.

MR. WALTON: Do you feel that it was inconsistent with your responsibilities as a teacher to circulate a petition seeking the recall of members of this Board?

MR. BLUE: No, sir, I do not. The reason for this is that the seeking of recall is the ultimate step. We made attempts to communicate with the Board the grievances that we had. I think they have been embellished somewhat in this hearing. We were unable to get this information to the Board even as late as the May 8th hearing, and we were unable to do so. So following that, following the publication of the Open Letter, which secured nothing but public information, then we had to resort to recall, and this was precipitated by a further, oh, I'd call it firing, the seeming firing of Mr. Swick and the demotion of Mr. Smith. This precipitated this. Also the teachers — I'll go up to that point.

MR. WALTON: In the notice of non-retention, the bill of particulars which the Board had served upon you back in March, 1960, you were charged with hav-

ing circulated the Open Letter with the intent of injuring the professional standing of the Superintendent. Was that your intent?

MR. BLUE: No, sir, it was not my intent.

MR. WALTON: What was your intent?

MR. BLUE: Nor was it our intent. My intent was to establish communication since we could not establish communication with the Board privately, then we felt that the public had to know. It was a Public School [321] System. We had tried to keep matters, so to speak, within the family first, we were unable to do so, therefore the next step was to try to get the public to call the School Board to consider those problems and solve them.

MR. WALTON: You are also charged with that Open Letter, by intending to destroy community and pupil confidence in the administration of schools. In fact, was that your intention, sir?

MR. BLUE: No, sir. It was quite the opposite of our intention.

MR. WALTON: It is further alleged in the open — pardon me — in the notice of non-retention bill of particulars, addressed to you, that such statements did tend to destroy community confidence in the management of school affairs by the Board. In fact, did the statements have that effect?

MR. BLUE: I don't know what the total reaction was about the community.

MR. WALTON: Do you believe that the results of the recall election vindicated the Board in its administration policies, or with respect to any of the matters which are the subject of this hearing?

MR. BLUE: No, sir, I believe that the recall only established that some 15 months later the people were retained in office. That's all it established as far as I can see.

MR. WALTON: No further questions.

MR. CASEY: We will recess for 5 minutes. 2:00 PM.

The meeting will be reconvened. Proceed, Mr. Burr, please.

MR. BURR: Mr. Blue on direct examination you stated that it was your desire to establish a better communication with the School Board. Is that correct?

MR. BLUE: Yes, sir.

MR. BURR: And with that in mind you had Mr. Ervine, the lawyer from Anchorage, sitting in one of your hearings in the Spring of 1959?

MR. BLUE: Yes, sir.

MR. BURR: Is it true that Mr. Ervine advised your group, including yourself, against the public distribution of Exhibit 7 — Board's Exhibit 7?

MR. BLUE: I don't remember that he did, sir.

MR. BURR: Is it possible that he did and you don't recall?

MR. BLUE: Everything is possible, but I feel certain that I would have remembered if he had.

MR. BURR: Would you have needed his advice if this were established?

MR. BLUE: His advice not to introduce it to the School Board?

MR. BURR: Not to publicize it, Mr. Blue.

[322] MR. BLUE: Not to — oh, I beg your pardon, I misunderstood the question. I'm sure we didn't discuss that.

MR. BURR: You did not discuss it?

MR. BLUE: Quite certain.

MR. BURR: Well, had he instructed you not to publicize this document, would it have made any difference?

MR. BLUE: Well, one hires an attorney usually to give serious thought to the attorney's advice. It's a hypothetical, it's very difficult for me to get my teeth into it. Mr. Burr has his reasons, I suppose.

MR. BURR: Mr. Blue, whose idea was Exhibit 7 — this open letter, originally?

MR. BLUE: I don't know, sir.

MR. BURR: Was it yours? You have to think about that, Mr. Blue?

MR. BLUE: Yes, sir, I do because you understand this was a group action.

MR. BURR: Well, you don't have any doubt about it not being yours?

MR. BLUE: As a member — I was a member of the group — I was one who discussed it. I helped prepare for it. I accept my responsibility, such as it may be, for it. I'm not sure I originated it, it is possible.

MR. BURR: Isn't it true that you actually spearheaded this whole move in your group to prepare and distribute Exhibit 7? That you were the motivating force behind the group that ultimately did prepare it and distribute it?

The brains — the brains so to speak, Mr. Blue.

MR. BLUE: Thank you, sir, I wished I deserved that, but I'm afraid that it can be proved contrary. The manner in which the group — the AFT came about was a spontaneous movement engendered with the breakdown of the Seward District Teacher's meeting. And I was one of those who helped in the formation of the Union, but as actually spearhead, it was not I who actually made the first step in that direction.

MR. BURR: Who was it, Mr. Blue?

MR. BLUE: It was Mr. Swick who secured the petition, which had to be signed by so many members and submitted to the National

MR. BURR: The National what?

MR. BLUE: The National Union of the American Federation of Teachers.

MR. BURR: Oh, in your effort to organize, you mean?

MR. BLUE: Yes sir. And I don't believe I was the first signer, I would gladly have been.

MR. BURR: I'm not talking about — you've made real plain your feelings about the local, to me at least. I was interested in who was the motivating [323] force behind the initiation and preparation of Exhibit 7. Not your efforts to organize.

MR. BLUE: Oh, I can't honestly say that I was or that I was not, but I'm willing to give an affirmative answer just merely in the interest of getting along with it.

MR. BURR: You're willing to state that you were the motivating force behind the preparation of Exhibit 7?

MR. BLUE: If it will serve so that I don't happen to remember this detail, I wouldn't quibb about the responsibility, no.

MR. BURR: And would that likewise apply to your co-respondent, Mr. Watts?

MR. BLUE: I can't speak for Mr. Watts.

MR. BURR: He is your co-respondent and since he was associated with you in the preparation of this document, was he not?

MR. BLUE: He worked with us, yes.

MR. BURR: And he likewise assisted in the distribution of this document to the public at Seward?

MR. BLUE: He did.

MR. BURR: You heard Mr. Fabricius testify earlier in this hearing, I believe it was last week when he testified, and we went through point by point with him, and as I remember, the question was put to him, rather specifically, on each item, as to whether or not these matters had been presented to him in the form or in the nature of a complaint.

MR. BLUE: Yes, sir, I remember that.

MR. BURR: And you recall his answer in the negative on each occasion, as I remember. I don't recall any exception.

MR. BLUE: I think not on each occasion. I think that one or two had been submitted.

MR. BURR: Well, with the exception of perhaps 1 or 2, but by and largely he denied that these matters had been brought to his attention in the form of a complaint.

MR. BLUE: In general, yes.

MR. BURR: Well, do you want to take the position at this time that his testimony is not true?

MR. BLUE: What is truth, sir? He has one concept of truth and I have another one.

MR. BURR: I'll take your definition of truth, Mr. Blue. I think a man with your education and background is qualified to distinguish between truth and falsity.

[324] I'd like to believe that anyway.

MR. BLUE: Well, I would too, sir. I would like to believe that Mr. Fabricius is stating the truth as he sees it; as he saw it, and I do not accuse him of deliberately testifying wrongly in his conscience.

MR. BURR: Do you believe that Mr. Fabricius would deliberately tell a falsehood under oath?

MR. BLUE: Only I believe

MR. BURR: Do you believe he would deliberately tell a falsehood under oath, yes or no

MR. BLUE: Only in self-deception, sir.

MR. BURR: What do you mean self-deception?

MR. BLUE: I think very often we are deceived individually as to what is the truth of the matter

MR. BURR: As you understand it — or as Mr. Fabricius understands it?

MR. BLUE: Well, as he understands it. I don't believe that he is lying for the sake of lying, no, sir.

MR. BURR: But you think he's lying for the sake of anything?

MR. BLUE: I don't think he's lying without having perfectly rationalized himself as being truthful.

MR. BURR: I'm not at all sure I understand you, even yet, Mr. Blue?

MR. BLUE: I'm not at all sure that I understand myself, sir.

MR. BURR: Well, that makes it even more difficult.

MR. BLUE: We are complicated creatures, aren't we?

MR. BURR: I should like to rephrase the question — restate it. Do you believe that Mr. Fabricius would intentionally make a statement which in his judgment and in his mind was not a true and accurate statement under oath?

MR. BLUE: I don't believe he would, sir.

MR. BURR: You recognize of course that your observations of the truth or falsity of the items 1 through 10 in Exhibit 7 is somewhat at odds with his statement?

MR. BLUE: Yes, sir, I realize that.

MR. BURR: Which of you are telling the truth?

MR. BLUE: Perhaps we are both telling the truth as we understand it individually, sir.

[325] MR. BURR: Even though in some cases they appear to be diametrically opposed?

MR. BLUE: Yes, sir.

MR. BURR: But you're both telling the truth?

MR. BLUE: As we conceive it individually.

MR. BURR: Was it your intention by the drafting and distribution of paragraph 5 in Exhibit 7 to bring Mr. Fabricius and the School Board in general in public disagrace?

MR. BLUE: No, sir. It was not.

MR. BURR: Do you believe that making a statement, or making a quotation from another person, in the form of a threat, to get 1/3 of the faculty this year and half of the remainder the next year, in an apparent attempt to purge and purge is in quotes, the faculty. Do you believe that statement would be damaging, if it were true? Damaging to Mr. Fabricius?

MR. BLUE: It might have that side effect.

MR. BURR: Do you believe that the public reading a statement such as that, Mr. Blue, that if they were convinced that it was true, would have a somewhat less attractive opinion of Mr. Fabricius?

MR. BLUE: This is very general when you say the public. I know that some elements of the public would so regard it and other elements of the public undoubtedly look at it in the opposite direction as a witness

MR. BURR: So you are taking the position at this time, Mr. Blue, that the statement in its context in paragrph 5 would not have the result of embarassing Mr. Fabricius and the School Board in the eyes of the public of Seward?

MR. BLUE: I say that was not the intent of the publication, sir.

MR. BURR: But you do concede this is one of the possible effects, side effects, as you call it?

MR. BLUE: I have so conceded.

MR. BURR: And you did — you were aware of that at the time you distributed this document in Seward?

MR. BLUE: I think we were so intent upon establishing communication that aside from ordinary care in trying to be accurate, that perhaps we didn't think a great deal about it.

MR. BURR: But had you devoted any time to think about it you would have derived the same

MR. BLUE: We did devote

MR. BURR: Let me complete my question. Had you taken the time to think about it [326] before you distributed this document, Exhibit 7, you would have arrived at the same opinion that the side effects would be embarrassing to Mr. Fabricius and the School Board. Would you not?

MR. BLUE: It depends upon what paragraph are you talking about, sir?

MR. BURR: The part that I've just quoted to you a moment ago.

MR. BLUE: You mean the threat part?

MR. BURR: Yes.

MR. BLUE: This is met within the realm of public knowledge, sir. It's been so testified.

MR. BURR: Do you understand my question? Had you taken the time to really consider this matter, prior to distributing the doucment to the public, isn't it true that you would have concluded then as you have concluded now, that one of the side effects would have been to embarrass Mr. Fabricius in the eyes of the public and the School Board?

MR. BLUE: I have to stand on what I stand before. It could be a side effect, a regrettable one perhaps.

MR. BURR: And you knew this had you taken the time to think about it, you knew this and were of the same opinion in the Spring of 1959 before you distributed Exhibit 7.

MR. BLUE: No, sir, I would say that we exercised what we thought was care during the period of very great tension possibly. We would have toned it

somewhat for the very reason you state, had the situation not been so fraught with emotion, high feeling, reaction to threats, made with reference to there, and all the rest of it.

MR. BURR: What you are saying, Mr. Blue, is at this time your opinion now as to what effect this had on the public is somewhat different than it was in the spring of 1959?

MR. BLUE: It may have undergone a slight modification.

MR. BURR: For the worse?

MR. BLUE: Tangibly, sir, until you raised the question, it had not been paramount in my thoughts. As I said before this was an attempt to communicate, to solve the problems. We tried to do it quietly, then when we could not accomplish this, then this seemed the next logical step to go to the public.

MR. BURR: Conceding here, as you now do, that the statement I have quoted from paragraph 5 in Exhibit 7 had a side effect of embarrassing Mr. Fabricius and the School Board, would it not have been a wise course of action, a prudent course of action for your group to have considered this matter more seriously before you distributed Exhibit 7 to the public of Seward?

[327] MR. BLUE: I think that everything of that nature should be considered seriously, sir, and if you will remember we were operating under a very strict time and during that period of time, also.

MR. BURR: Is your answer yes or no, Mr. Blue?

MR. BLUE: Can you restate your question again so that I can

MR. BURR: Would it or would it not have been a more prudent course of action to seriously consider the side effects of this document on the public of Seward before you distributed the document to them.

MR. BLUE: It would have been more prudent, yes, sir, to have considered. Excuse me just one moment please.

MR. BURR: You testified on direct examination that you were not personally aware of the statement

in paragraph 5 in Exhibit 7, which is attributed to Mr. Fabricius in citing his threat to get 1/3 of the faculty.

MR. BLUE: I never heard him make that remark, sir.

MR. BURR: Where did this information come from?

MR. BLUE: I heard it from — I believe Mr. Swick has already testified to it here.

MR. BURR: Mr. Watts?

MR. BLUE: Yes, sir.

MR. BURR: Where did Mr. Watts hear it? Did Mr. Watts hear it from Mr. Fabricius?

MR. BLUE: I don't recall what Mr. Watts said the source was — I think he so testified.

MR. BURR: Assuming this was brought to your attention by Mr. Watts, would you consider it a matter of such gravity that you would be compelled to discuss the matter with Mr. Fabricius in his position as Superintendent?

MR. BLUE: You mean if Mr. Watts or anyone said such a statement were made about him, that I would consider it proper to mention it to Mr. Fabricius? If this were a matter of idle gossip, which I didn't give any particular credit to, and if I were on such terms of communication with Mr. Fabricius that I thought I could discuss it with him quietly. If I regarded it as merely idle gossip I would certainly wait. But I thought that it was something that was an untrue statement or a designed statement of some sort, and if my relationship with Mr. Fabricius were such that I felt I could bring it to his attention, certainly I would have mentioned it to him.

MR. BURR: Did you ever ascertain from questioning anybody besides Mr. Watts your co-respondent, to check and determine the validity of this [328] statement that is attributed to Mr. Fabricius, for instance, by asking him?

MR. BLUE: By this time, sir, we regarded Mr. Fabricius as somewhat unapproachable.

MR. BURR: Did you or did you not ask Mr.

Fabricius or anyone else besides Mr. Watts whether or not if in fact this statement was made?

MR. BLUE: I did not ask Mr. Fabricius whether or not he made this statement. In the Union we discussed it generally.

MR. BURR: And this discussion generally among the Union was sufficient in your mind to bring this matter to the public form in Seward without so much as bringing it to the attention of the man from whom it came, according to your people

MR. BLUE: As I have told you, sir, all of the material contained in here, we attempted to communicate and we certainly had no intention of not communicating with Mr. Fabricius except we thought we would run into hostility, that we could not establish communication.

MR. BURR: You stated that you taught Social Studies in High School?

MR. BLUE: Yes, sir, that's correct, sir.

MR. BURR: Did you teach your students that it's proper and consistent with democratic procedures to assassinate in a public form the character of a man without so much as bringing the matter to his attention first.

MR. BLUE: I did not discuss this matter with the students, sir.

MR. BURR: Would you teach such a

MR. BLUE: I would not.

MR. BURR: And yet you did in fact do this on this occasion?

MR. BLUE: Will you repeat the question, please?

MR. BURR: You did in fact publish a statement about Mr. Fabricius without bringing the matter to his attention first?

MR. BLUE: I participated in the preparation, publication and distribution of this document, part of which I helped to prepare — part of which others prepared. It was all prepared as far as we could determine in a truthful manner and it was an ultimate and last — merely a last resort to resolve a very serious problem that effected the lives of.

a great many people and which already had the town in a furor.

MR. BURR: I believe you also mentioned that you tried to instill in your students the precepts of democractic procedure and constitutional rights such as Freedom of Speech?

MR. BLUE: Yes, sir.

[329] MR. BURR: Do you believe that Freedom of Speech includes the making of public statements about a man's character of the nature that's set forth in paragraph 5 of Exhibit 7?

MR. BLUE: You said of the nature?

MR. BURR: Don't quibble over my question. If you don't understand them, I'll restate them, Mr. Blue. You are just unnecessarily prolonging this hearing.

MR. BLUE: That's not my intention, sir. Perhaps you can understand that I want to be as accurate as I can, if I'm hesitant, I'm sorry, it's not for the purpose of frustrating you. Will you ask me the question again, please?

MR. BURR: Do you have the question down? Question read back to Mr. Burr.

Do you believe that the Freedom — that the right, that what we recognize as a constitutional right of freedom of speech includes the right of any person to make a public statement of an adverse nature about another person's character?

MR. BLUE: In special circumstances, sir, I believe it's a moral right.

MR. BURR: Do you believe it's a constitutional right — I'm not talking about moral rights, Mr. Blue.

MR. BLUE: I believe that as a constitutional right, one does have the right to make a statement which may be adverse to a person's character, if this is on a very serious and important matter, and if it is something that the speaker regards as being necessary to be brought to the attention of the public.

MR. BURR: Do you believe that it is likewise within the purview of the freedom of speech to make statements which are not direct statements, and by

that I mean are statements concerning which you are not certain as to their truth or falsity, or the effects of the statement.

MR. BLUE: Sir, as I have testified we believed that these statements were true.

MR. BURR: I direct your attention to paragraph 6 where you make the statement and I quote "the apparent authoritarian mishandling of this resignation impairing the teacher's chances for a teaching position elsewhere"

MR. BLUE: It is qualified for the reason that we wanted clarification on this point and we were unable to get it still from the lack of communication.

MR. BURR: Well, in spite of this lack of information and lack of justification, you made reference to the apparrent authoritarian mishandling of a situation which was the responsibility of the Superintendent?

MR. BLUE: We made that reference, yes.

MR. BURR: Which had the side effect of imputing to the Superintendent a lack of proper conduct in office.

MR. BLUE: That seemed to be the case, sir.

[330] MR. BURR: And this too is consistent with your thinking of freedom of speech as a constitutional right?

MR. BLUE: Well, sir, let me generalize

MR. BURR: I don't want you to generalize, I want you to be specific

MR. BLUE: I know — but you're asking me about something that has a very broad application, are you not?

MR. BURR: Well is this, or is this not consistent with your definition of the rights of freedom of speech?

MR. BLUE: In this case, sir, I believe that this paragraph is consistent with the exercise of the rights of the freedom of speech. In fact, it's responsibility.

MR. BURR: In direct examination we were discussing, you were discussing with your counsel, the inter-com system set up in the high school building of Seward. By which the Superintendent or anyone

in the front office can listen over the inter-com to the several classrooms.

MR. BLUE: So I was informed, sir.

MR. BURR: What was — let me rephrase this — this was a system designed to communicate between the front office to various classrooms, is it not, Mr. Blue?

MR. BLUE: Yes, sir. It can be used for that purpose.

MR. BURR: Is it used for any other purpose such as the communication of public addresses, the playing of baseball games, for the students

MR. BLUE: Yes, sir.

MR. BURR: And the making of announcements?

MR. BLUE: Yes, sir.

MR. BURR: And the monitoring of classroom conduct?

MR. BLUE: I don't know if it was ever used as a monitoring system, or not.

MR. BURR: Would you consider this to be an improper use of this system?

MR. BLUE: Not if the class to be monitored or audited were informed by a buzzer.

MR. BURR: Do you consider — do you consider the monitoring of classroom conduct to be an intrusion upon your rights of privacy, for instance?

MR. BLUE: No, sir.

MR. BURR: So your classroom is not such a private institution that it can't be audited or monitored by the Superintendent who is responsible for your conduct. Is it?

[331] MR. BLUE: I don't believe that the administrator is responsible for my conduct, is he?

MR. BURR: I'm asking you. Wouldn't you consider a Superintendent to be generally and overall responsible for the conduct — the professional conduct of the teachers under his jurisdiction?

MR. BLUE: In certain areas, perhaps.

MR. BURR: Such as teaching qualifications?

MR. BLUE: Determining what they are?

MR. BURR: Yes. And can you think of a better

way than listening to the teachers than hearing somebody else tell them about it?

MR. BLUE: It's perfectly acceptable.

MR. BURR: But it's first hand, isn't it?

MR. BLUE: Yes, it is.

MR. BURR: Can you think of a better system than listening to determine whether or not a teacher is — whether the techniques utilized are consistent with the techniques as he understands them.

MR. BLUE: The proper techniques, sir, I don't believe I can quite accept that statement.

MR. BURR: Well do you believe there's something wrong with his monitoring a classroom? To determine whether or not in his judgment it is being properly supervised?

MR. BLUE: Do you mean do I believe he has been monitoring?

MR. BURR: Do you believe that it would be improper for him to do that, assuming that he did.

MR. BLUE: I'm not assuming that he did, sir.

MR. BURR: Well, let us assume that he did — on several occasions — if he did do this would you consider it to be an improper utilization of this electronic equipment which was designed for that purpose among other purposes?

MR. BLUE: Not necessarily, sir, no.

MR. BURR: Then why do you impute an improper conduct on the part of Mr. Fabricius for listening in to the classrooms as you suggested on direct examination?

MR. BLUE: My statement there is based on a rather subjective thing. I believe that when a teacher has taught successfully over a period of time.

MR. BURR: Successfully in whose judgment, Mr. Blue?

MR. BLUE: Well, in the judgment of his students, let us say, after the fact considerably. If a teacher has been even adequate in a system [332] over a period of time, I don't believe that it is a necessary thing to monitor him. The objection is not to the monitoring per se for the sake of monitoring to get-

ting information. I believe in getting information is a good thing. I was thinking more of the classroom situation, which is a very intimate subjective one of communication or rapport between teacher and students. Sometimes in this connection, the desired result occurs and some times it doesn't, I think we have to recognize that generally. We hope that it occurs in all cases, we know that it doesn't. And in the learning process, pretty largely, I believe there has to be a comfortable situation whereby communication can take place. Now, if you hear or suspect that you are being eavesdropped upon, to this extent, it creates this doubt like I said in the teacher, and maybe in the student, I can't say for apparent, but I think it fits in the actual learning process.

MR. BURR: Well, I should like you to confine your testimony

MR. BLUE: Let us say in the teacher's mind when he feels he may be eavesdropped upon, or is being eavesdropped upon, it would tend to make it more difficult for him to do the job he wants to do as effectively as he wants to do it.

MR. BURR: Did you believe the monitoring of your classroom impeded or interfered with the establishment of rapport between you and your students?

MR. BLUE: I don't know that there was monitoring, sir?

MR. BURR: Then, why did you complain of it then?

MR. BLUE: Because of this feeling — that is the youngsters would point out to it themselves — it is one of these things that goes around.

MR. BURR: As a matter of fact, if this monitoring took place, why did you suggest on direct examination that this monitoring that you defined was some of the dictatorial treatment that you described in paragraph 7 that forced the teachers into the choice of submitting and taking it at the loss of personal dignity.

MR. BLUE: I think there's a matter of construction here — monitoring is not necessarily dictatorial

treatment — in fact, I do not state — the term dictatorial here possibly is open to a little further definition.

MR. BURR: Why did you not define it more clearly in your statement then? In your statement, Exhibit 7, to the public, if you felt it was not self-explanatory?

MR. BLUE: There are elements of this complex which are dictatorial, this particular statement relative to monitoring, is not necessarily dictatorial, or it may be related to it.

MR. BURR: Was it a loss of personal dignity in the teacher?

MR. BLUE: You mean the use of a monitoring system or the presence of a monitoring system?

[333] MR. BURR: The thought that you might have somebody eavesdropping on you? Is that a loss of personal dignity?

MR. BLUE: It certainly doesn't contribute to it, sir.

MR. BURR: Is that a loss of personal dignity to the teacher?

MR. BLUE: Perhaps — I would say in a slight degree.

MR. BURR: Did you ever bring this objection to the attention of Mr. Fabricius?

MR. BLUE: As I say sir, unless it was something of a necessary business, I didn't approach Mr. Fabricius.

MR. BURR: You didn't approach him about it, but you saw fit to bring it to the attention of the public at Seward? As a complaint?

MR. BLUE: No, dictatorial treatment, not the monitoring system.

MR. BURR: Well, maybe I misunderstood you, I thought that your counsel had reference to paragraph 7 when he asked you was there anything else, Mr. Blue, that you were unhappy about, and you went on to elaborate on this eavesdropping technique on the monitoring — on the system.

MR. BLUE: I did that sir.

MR. BURR: Well, was that part of what you were talking about in paragraph 7, or wasn't it?

MR. BLUE: Well I must state that I don't regard monitoring as necessarily being dictatorial.

MR. BURR: Well, did it create friction — what you constituted as a loss of personal dignity?

MR. BLUE: It certainly created friction within me as a teacher, yes.

MR. BURR: Just exactly what were you talking about when you said that dictatorial treatment of teachers forcing them into the choice of submitting and taking it at the loss of personal dignity. What were you talking about, Mr. Blue?

MR. BLUE: This certainly would be directly applicable to the situation of Mr. Condor, or people who negotiated with the School Board, or attempted to in the matter of the non-retention. I think that's what that paragraph referred to specifically.

MR. BURR: What is this loss of personal dignity? What loss of personal dignity did you encounter personally?

MR. BLUE: I didn't encounter any great loss of personal dignity, personally.

MR. BURR: Well, personally, then would you say that the system under Mr. Fabricuis at the time that you were fortunate enough to be a member of this system, was satisfactory?

MR. BLUE: Monitoring system satisfactory?

[334] MR. BURR: No, the whole school system.

MR. BLUE: No, I would not make that claim, sir.

MR. BURR: Well, did you lose any personal dignity at the time you were under the — a member of this teaching system?

MR. BLUE: Yes, sir.

MR. BURR: What? How, when and where?

MR. BLUE: In the Fall of this year

MR. BURR: 1960?

MR. BLUE: Yes, sir. I came to the school

MR. BURR: This is after the facts now, I'm talking about the Spring of 1959, now.

MR. BLUE: I withdraw what I started to say. I did not personally receive that treatment, sir.

MR. BURR: Do you know of anybody — any

teacher in particular that had a loss of personal dignity as a direct result of what Mr. Fabricius or the School Board did?

MR. BLUE: I heard Mr. Richardson testify that he had a rather unpleasant day.

MR. BURR: Mr. Richardson? Monte Richardson? That he had a rather unpleasant day? That constitutes a loss of personal dignity?

MR. BLUE: He had an unpleasant day in connection with a conversation with another person. A possibility of a loss there, I think.

MR. BURR: Did Mr. Richardson authorize you to tell the public of Seward that he had a loss of dignity as a result of having a difficult day?

MR. BLUE: I have no authorization from Mr. Richardson. I'm referring to something he testified to, sir.

MR. BURR: Well, I'm referring to the statement you made to the public of Seward. I want to know who that you were referring to, here?

MR. BLUE: In the matter of dictatorial treatment of teachers?

MR. BURR: No. I'm talking about the loss of personal dignity now.

MR. BLUE: Oh, loss of personal dignity. Well, I would say that Mr. Condor suffered a loss of personal dignity.

MR. BURR: Because he resigned?

MR. BLUE: It was the manner of his resignation.

MR. BURR: And you're personally aware of the circumstances surrounding his resignation?

[335] MR. BLUE: Only as reported to me by him, after that occurrence.

MR. BURR: You have seen his resignation as an exhibit in this record, have you not?

MR. BLUE: No, sir, I have not. I have only heard about it.

MR. BURR: Well, in any event, do you consider the resignation or the departure of Mr. Condor from the Seward School Board System as a loss of personal dignity for him?

MR. BLUE: So he reported it to me, not in those words, but I gathered that from what he said.

MR. BURR: So this is your observation of what happened to him — not Mr. Condor's observation?

MR. BLUE: His report to me of what he said happened.

MR. BURR: Did he say he had experienced a loss of personal dignity by virtue of his departure from the Seward School Board System? Or did he not?

MR. BLUE: He did not make that direct statement.

MR. BURR: But you saw fit to tell the public of Seward what happened and that was your opinion of what happened?

MR. BLUE: I participated as one of 18 members publishing that statement, sir.

MR. BURR: Board's Exhibit 17. Does Mr. Condor make any reference, Mr. Blue, in his resignation which you have just examined, about having been forced at the instance of Mr. Fabricius or the School Board, to lose or suffer from the loss of personal dignity?

MR. BLUE: He makes no reference to it in that letter, sir.

MR. BURR: You know of anybody else, Mr. Blue, that had a loss of personal dignity as a result of this school board or its predecessor, or Mr. Fabricius, or either of them?

MR. BLUE: The matter of four non-rentention, sir, I think that applies here.

MR. BURR: You think it does? Is there any doubt in your mind but what it does, Mr. Blue?

MR. BLUE: No, there isn't any doubt. I would say yes it does.

MR. BURR: Wherein they did lose any personal dignity by being non-retained?

MR. BLUE: When a person is not retained and when he is — that is a professional person, a contractual person is not retained and he is not given the reason for being not retained as the law provides, then as a professional person, immediately this per-

son is impugned, is placed in a situation of having been fired, let go, and I think this very definitely means that their dignity has suffered some loss — he has suffered some indignity.

MR. BURR: But you will concede, will you not, Mr. Blue, that the law provides this manner of discharging teachers for cause?

[336] MR. BLUE: There is a provision by the State that may be discharged for cause, yes.

MR. BURR: And a proceeding such as this is to determine whether or not that cause in the opinion of the Board, in it's appellant form, is, or is not sufficient?

MR. BLUE: I'd concede that. That is when the thing is brought about.

MR. BURR: And this, again is consistent with the democratic process that you mentioned a while ago.

MR. BLUE: That people may be discharged for cause when there is substantial cause?

MR. BURR: Yes.

MR. BLUE: I concede that this is part of it, yes.

MR. BURR: And this is consistent with the democractic process as a manner of discharging a teacher?

MR. BLUE: Yes, when it's carried out in that way, yes, sir.

MR. BURR: So, if it's carried out with substantial compliance with the law, would you not concede that there is not necessarily a loss of dignity, by being involved in one of these proceedings?

MR. BLUE: The person would feel that there is a loss of dignity.

MR. BURR: But the exercise of a statutory right of discharging a teacher, or attempting to so do, is still consistent with democratic process.

MR. BLUE: The way it was done was not consistent with democratic process, sir, because we maintain that it was not legal — not legally done. We have never have heard nor have those individuals heard what the causes were for their discharge nom-

inally. As a matter of fact, sir, one of them, after having been told that she was non-retained, was, not only had her contract renewed, but then was rehired for the following year, subject to continued education

MR. BURR: You stated that you were reluctant to process grievances to Mr. Fabricus at the time you were here?

MR. BLUE: Yes, sir, I said that.

MR. BURR: Did that same situation exist with Mr. Fabricius' predecessor?

MR. BLUE: No, sir.

MR. BURR: Did you any time prior to the coming of Mr. Fabricius to this system, ever process any grievance to his predecessor?

MR. BLUE: No, sir, I don't think so.

MR. BURR: Would you have felt free to do so?

[337] MR. BLUE: Yes, sir.

MR. BURR: Why is it that you didn't feel free to so do with Mr. Fabricius?

MR. BLUE: Well, I personally witnessed the Smith incident which has been referred to here, and I testified on it, for example.

MR. BURR: Well, I should like your testimony on whether or not you ever personally tried to process any of the grievances in Exhibit 7 to Mr. Fabricius?

MR. WALTON: Excuse me, Mr. Casey and Mr. Burr. I don't think the witness had finished answering your last question. Why did you feel you could not process grievances to Mr. Fabricius? Perhaps he would like to answer that question.

MR. BURR: Would you?

MR. BLUE: Would I feel free to do so? I would do so if I felt I could do so with some effect and without getting into an argument with him.

MR. BURR: Well, did you ever try to submit a greivance and get into an argument with him?

MR. BLUE: No, sir, I avoided arguments with him.

MR. BURR: Did you ever try to present any of these grievances to him? Any of them?

MR. BLUE: To the extent that it was a joint action, sir.

MR. BURR: Wait a minute — I want my question answered. Did you or did you not personally ever present any of the grievances in Exhibit 7 to Mr. Fabricius?

MR. BLUE: Personally or individually?

MR. BURR: Yes, personally.

MR. BLUE: Not directly — indirectly.

MR. BURR: Do you know whether or not these were personally brought to the attention of Mr. Fabricius by Mr. Blue for instance — Mr. Watts, I'm sorry. I mean any of the 10 items in Exhibit 7.

MR. BLUE: At any time?

MR. BURR: At any time. In the form of a grievance or a complaint, or whatever you choose to call it.

MR. BLUE: Yes, sir, I do.

MR. BURR: When, sir.

MR. BLUE: Mr. Watts was a member of the Seward District Teachers Grievance Committee, which I believe has already been entered here in which they discussed this matter of illegal non-retention.

MR. BURR: That's one item. Would you say that's true as to all of the others?

[338] MR. BLUE: No, I would not say that is true as to all of the items.

MR. BURR: So there are some items on Exhibit 7 concerning which they were not presented to Mr. Fabricius in the form of a complaint, sir?

MR. BLUE: In the form of a complaint?

MR. BURR: In the nature of a complaint.

MR. BLUE. Well, this letter itself was presented to Mr. Fabricius.

MR. BURR: Yes, it was and at the same time it was submitted to the public of all of Seward.

MR. BLUE: Same time, sir?

MR. BURR: Yes. At least that's what people have said.

MR. BLUE: I've heard that testimony and I've been dwelling on it. I have to go back to approximate-

ly May 18th. You understand to recall has some difficulties here. You remember the circumstances of the distribution of this document. You remember the action that was carried out. Some of them were sent by mail to — one of them was written to people away from Seward — one went to Commissioner of Education, so forth. Mr. Watts was commissioned to take copies to each member of the School Board and to administrators. I don't know what sequence he would do this. Meantime the rest of them were in the process of being prepared for mailing, so if it's sequence you're interested in, I believe that these were presented to Mr. Fabricius and the Board Members prior to being submitted to the mails and ultimately to the public — this is rather mechanical, sir.

MR. BURR: I believe Mr. Watts has testified to that.

MR. BLUE: Well, it's a point we tried to make before — roughly you seemed to be raising the question of sequence that's why I tried to clarify it.

MR. BURR: Roughly they were contemporaneous, weren't they?

MR. BLUE: Well, how widely a space does roughly encompass?

MR. BURR: Oh, anywhere from a second up to a day, I'd say.

MR. BLUE: That being the case — roughly, yes sir.

MR. BURR: In any event they were submitted to the public before the School Board had an opportunity of reading these and taking action on them, again, weren't they?

MR. BLUE: The same material we had tried to present unsuccessfully to them before as I have testified.

MR. BURR: Your answer is yes, then?

MR. BLUE: Will you repeat the question, please?

[339] MR. BURR: This was distributed — Exhibit 7 was distributed to the public prior to any action being taken by the School Board on Exhibit 7 after they had been furnished a copy of it.

MR. BLUE: As far as I know they haven't yet taken action on any of these items.

MR. BURR: So your answer is yes?

MR. BLUE: My answer must be pretty close to the affirmative.

MR. BURR: Yes?

MR. BLUE: If you want to put the words in my mouth, yes.

MR. BURR: It's a difficult question to answer in the affirmative, isn't it, Mr. Blue?

MR. BLUE: Sir, many of the questions, I think are subject to some qualification.

MR. BURR: I notice you experience a little reluctance in answering my questions.

MR. BLUE: Yes, sir I do. Perhaps you'd like to have me explain why?

MR. BURR: You needn't explain.

Do you still believe at this time, Mr. Blue, that the teachers local of the Union, the Federation of Teachers, have the license or the right to communicate to the public a document such as Exhibit 7, before all of the grievances have been submitted to and ruled upon by both the Superintendent and the School Board?

MR. BLUE: The AFT? Do you mean the AFT in its present circumstances?

MR. BURR: I mean the AFT as it existed in the spring of 1959.

MR. BLUE: The AFT decided that that was its responsibility and it did so.

MR. BURR: Well, you're still a member of this organization?

MR. BLUE: I am, sir.

MR. BURR: Can you speak on the behalf of the organization to the extent of expressing an opinion as to whether or not you still consider this to have been a proper course of action?

MR. BLUE: Yes sir, I think so.

MR. BURR: Your counsel asked you whether or not in your judgment the recall election vindicated the Board in the charges of dereliction and your answer

was in your judgment this election did not have that effect.

MR. BLUE: That was my answer, sir.

MR. BURR: Just exactly what do you consider the purpose of that recall election to have been, Mr. Blue?

[340] MR. BLUE: To determine whether or not the public still had confidence or lack of confidence in elected members of the Board.

MR. BURR: What was the alleged grounds for this recall, Mr. Blue, as published by you and your assistants?

MR. BLUE: Non-feasance in office, failure to uphold one's oath of office.

MR. BURR: By non-feasance of office you had in mind, did you not, the very items that were outlined in Exhibit 7?

MR. BLUE: Not necessarily all of them, sir.

MR. BURR: Some of them?

MR. BLUE: Some of them, yes sir.

MR. BURR: You considered these — some of these to be to constitute non-feasance?

MR. BLUE: Yes, sir.

MR. BURR: By non-feasance do you mean the non-performance of a lawfully imposed obligation?

MR. BLUE: I mean exactly that, sir.

MR. BURR: You don't mean — as compared to that — you don't mean the performance in an unsatisfactory manner of a lawfully prescribed duty?

MR. BLUE: Repeat the latter part of that sentence please?

MR. BURR: Well, I'm trying to distinguish the situation between the failure to perform and the improper performance of a duty?

MR. BLUE: I don't believe that non-feasance necessarily includes the violation of law, I believe it means the lack of complying with the law.

MR. BURR: So you weren't charging the School Board with mis-feasance or improper handling of their affairs?

MR. BLUE: We did not so charge.

MR. BURR: Can you tell me some of the items of non-feasance that you had in mind?

MR. BLUE: Yes sir. The first item contained in this Open Letter, Exhibit whatever it is

MR. BURR: Illegal non-retention?

MR. BLUE: Yes sir.

MR. BURR: Wherein was there non-feasance there?

MR. BLUE: If non-feasance means not complying with the law not providing a bill of particulars as provided by law must be non-feasance as I understand it.

[341] MR. BLUE: If the law requires that certain fire drills be held, and they are not held, then to the extent that they are not held according to statute, I believe again that could be construed as non-feasance.

MR. BURR: And by the failure to uphold one's oath in office you are charging them with acting contrary to the oath?

MR. BLUE: Now, sir, if they swear to uphold the law and do not do so, it seems to me that that applies.

MR. BURR: Do not do so in your judgment?

MR. BLUE: No, do not do so.

MR. BURR: In your judgment?

MR. BLUE: I'll accept that, yes for my statement.

MR. BURR: Well, that was the purpose of submitting this matter to the public in the form of a recall election, was it not?

MR. BLUE: Yes, the recall was based on this belief that they had not complied with the law.

MR. BURR: And by virtue of the fact that they were — the public saw fit to retain these people in their election positions, you don't consider that to be a vindication of these charges?

MR. BLUE: No sir.

MR. BURR: So you still consider the Board to be responsible for the dereliction of duty — in spite of the election?

MR. BLUE: Such members as remain sir who were a party to it.

MR. BURR: So this election in your mind was nothing for a condemnation of illegal acts, by the public of Seward?

MR. BLUE: No, that is not exactly my point, sir.

MR. BURR: What exactly is your point? I'm trying to find out.

MR. BLUE: The recall election was carried out 15 months after the fact. The School Board brought action to prevent the recall election and caused the City Council to delay this action. It became necessary to appear before the court, ultimately the, at least the Supreme Court ultimately the Supreme Court gave a decision that the action taken by the Board was not in accordance with the constitution of the State of Alaska and therefore ordered an election, or rather set up the operation to order it through the Supreme Court.

MR. BURR: Mr. Blue, at this time do you personally feel that each member of the Seward School Board System as a teacher has the right as an individual, or as a member of the AFT, when they become dissatisfied with the Superintendent, or any member of the School Board, or the Board as a whole, to prepare or cause to prepare a document such as Exhibit 7 and to distribute this document to the Seward Public?

[342] MR. BLUE: Will you state the question, again, please?

MR. BURR: Do you believe at this time personally that a teacher is licensed to prepare and cause to be distributed a document such as Exhibit 7 to the public at Seward if they become dissatisfied and have certain complaints about the Superintendent or the School Board?

MR. BLUE: Have license to do this?

MR. BURR: Or have a right?

MR. BLUE: Have the right to do that? They have a right to do it after other attempts to clarify the situation has failed, then I feel it becomes an obligation perhaps.

MR. BURR: Your judgment — your opinion is that they have this right?

MR. BLUE: Yes sir.

MR. BURR: They have this right to bring to the

attention of the public statements which you did not personally hear, but you have heard about?

MR. WALTON: Mr. Burr and Mr. Casey, I don't like to obstruct you by objections, but I simply call to your attention that I think that this question calls for a conclusion of law the very purpose of this proceeding is to determine whether or not these gentlemen had a right. This is a question for the Board and possibly the State Department of Education to rule on. It's a question of the statutes, what rights to teachers have. I submit this line of questioning is improper for that reason and will not make a formal reason and will not make a formal objection.

MR. BURR: That's all I have.

MR. CASEY: At this time I think we better stretch our legs a bit — we've been sitting for about a hour and 10 minutes, we better take a break. Recess for 10 minutes, at 3:15 PM. Reconvened at 3:30 PM. The meeting will be reconvened. Mr. Walton, would you like to preceed?

MR. WALTON: May I? Thank you. Mr. Blue with respect to whether or not the matters referred to in the Open Letter were ever first presented to Mr. Fabricius before they came to the attention of the Board. I believe you testified, did you not, that Mr. Pat Ervine attempted to bring the matters contained in the Open Letter to the attention of the Board prior —

MR. BLUE: With exception to two items, yes sir.

MR. WALTON: And you have previously testified to extensive efforts made on behalf of your association to negotiate with the Board? Have you not?

MR. BLUE: Yes sir.

MR. WALTON: And any time during that entire period of protracted negotiations, did anyone ever ask you to first to proceed through Mr. Fabricius?

[343] MR. BLUE: No sir, the idea seemed to be completely ignored. The School Board made responses both to the Seward District Teachers and also to the AFT without making mention of it, so presumably it was perfectly acceptable to them.

MR. WALTON: You have testified on this very delicate question of whether or not you feel Mr. Fabricius might lie, the question which Mr. Burr raised incidentally, I believe you testified you thought that Mr. Fabricius might say something which is not true by way of self-deception. Will you explain what you mean by that? Tell why you answered in that way?

MR. BLUE: Yes sir. We had seen that he had given a good deal of credence to rumors in the past to the effect that somebody was out to get him, or get his contract. He has earlier testified that he thought Mr. Swick was gunning for his job, I believe, and the entire pattern seemed to be one of fearing, or being very much involved in his thinking of the matter of people persecuting him, or being after him,

MR. WALTON: You believe that that was a self-deception in that it was not based on any fact?

MR. BLUE: Yes sir. I didn't hear the original rumor, for example, I certainly never heard Mr. Swick say he was gunning for his job or anything of that sort. I couldn't see what the basis for his theory was except perhaps, it was suspicion of some sort.

MR. WALTON: Mr. Burr has interrogated you with respect to your opinion of the right of a person to speak freely. You feel and I had hoped he might ask, do you feel that teachers have less, or greater, or equal rights of ordinary citizens?

MR. BLUE: I believe that their right to freedom of speech should be identical to all other citizens. in fact, I think that sometimes they may have an obligation in that direction.

MR. WALTON: I believe you were asked whether or not you felt that it was within your right of free speech to circulate the open letter, Exhibit 7, were you not?

MR. BLUE: Yes sir, I was asked that question, yes.

MR. WALTON: Even though it might be adverse to Mr. Fabricius for example?

MR. BLUE: Yes sir.

MR. WALTON: Do you know are there any restric-

tions on when one may speak freely on matters which are adverse to another person?

MR. BLUE: Restrictions are restrictions of ordinary responsibility, sir. Undoubtedly any part of the thing that is being stated is the result of the person being spoken abouts action, when the presumably the responsibility lies on the person of whom you are speaking.

MR. WALTON: Well, how is that a part of this case?

[344] MR. BLUE: Well, Mr. Fabricius made threats which seemed to be substantiated here, so I was told by persons whom I regarded competent.

MR. WALTON: By that you refer to whom?

MR. BLUE: Mr. Watts for example, Mrs. Davis. I did not directly speak to Mr. Trevethan but I have confidence in the person who reported Mr. Trevethan's speech to me. There must have been something in this whole complex to the effect that Mr. Fabricius had made substantially these statements, therefore he must have been responsible for them.

MR. WALTON: As a matter of fact, if Mr. Fabricius did say that the things were true in paragraph 5 of the open letter, are you saying that it would be his responsibility and his problem should it prove embarrassing to him to have it publicized?

MR. BLUE: Yes sir.

MR. WALTON: Are you satisfied that, in fact, that Mr. Fabricius had said the things mentioned in paragraph 5 to this publication?

MR. BLUE: Yes sir, I was convinced of it, because it had been related to me by people whom I regard to be honorable and competent.

MR. WALTON: And they stated that they had heard these things said by Mr. Fabricius?

MR. BLUE: Yes sir.

MR. WALTON: As a matter of fact, Mr. Watts so testified under oath, did he not?

MR. BLUE: He has, yes sir.

MR. WALTON: Unless there by any confusion on the subject of the monitoring device, are we to under-

stand your testimony to be that there is something wrong with monitoring, or rather that the monitoring system caused tension and conflict?

MR. BLUE: I believe the statement I intended to make was that it caused tension.

MR. WALTON: Among whom?

MR. BLUE: Among the teachers including myself.

MR. WALTON: I believe you were also asked why didn't you present some of these extenuative things to Mr. Fabricius personally, rather than seeking to go directly to the Board as was done? Can you answer that question?

MR. BLUE: I experienced — witnesses a situation in which a man came to him with a grievance.

MR. WALTON: Who?

MR. BLUE: Mr. Jerry Smith. I didn't relish the thought of going through the same sort of thing myself, that of being spoken to in a very peremptory tone, in a threatening manner being accused of [345] things before I even had the opportunity of explaining, which was essentially the Smith situation.

MR. WALTON: Do you know of any law, Mr. Blue, which prohibits a teacher's union from communicating grievances to the public?

MR. BLUE: No sir, I don't.

MR. WALTON: Have you learned of any in this course of this proceeding?

MR. BLUE: No sir.

MR. WALTON: Do you feel that teachers are less entitled to complain of a School Board than ordinary citizens, publicly?

MR. BLUE: I think that their position is identical with perhaps this exception, that being closer to the problems that perhaps they should make extended efforts first before publicizing the thing. The very thing we did throughout our history.

MR. WALTON: No further questions.

MR. BURR: No further questions.

MR. WALTON: We would like to call Mr. Watts.

* * *

MR. WALTON: Mr. Watts, I believe you have previously identified yourself, have you not?

MR. WATTS: I have.

MR. WALTON: You're a married man, are you sir?

MR. WATTS: I am.

MR. WALTON: Do you live in Seward?

MR. WATTS: I do.

MR. WALTON: You have lived here now long?

MR. WATTS: Nine years this last time.

MR. WALTON: You have taught here how long?

MR. WATTS: Seven years.

MR. WALTON: You have been a teacher how long?

MR. WATTS: Twelve years.

MR. WALTON: How old are you?

[346] MR. WATTS: Forty-seven.

MR. WALTON: Do you have a copy of the Open Letter in your possession?

MR. WATTS: I have.

MR. WALTON: I refer your attention, Mr. Watts to the second paragraph on page 2 following paragraph 10, wherein reference is made to efforts on behalf of the AFT to correct certain matters. I direct your attention to the meeting of May 8th which has been testified about. Mr. Blue, I believe, has testified with respect to matters there undertaken by Mr. Ervine. Is there anything that you can — any additional information that you can furnish the Board with respect to that question?

MR. WATTS: I believe after one and a half or two hours of discussion, that several people in the audience who had raised the question about grievances or bills of particulars, and no one seemed to know much about it. Mr. Fabricius, I believe, made the statement not verbatim, but to the effect that he would welcome this bill of particulars being brought out with these grievances and find out what they were and see what could be done about them, or something to that effect. And at that time, our attorney, Mr. Pat Ervine, offered every clearly and distinctly to go into the school board chambers with the school board and 1 or 2 other interested parties of the Teacher's Union, to discuss this matter of the bill of particulars and he

was quite sure that our problems could be resolved in a very short time if it was done so. At that time the Board did not answer and finally Mrs. Whitmore I believe brought up the question of she couldn't understand how I had my certificate renewed in Seward for 5 more years.

MR. WALTON: Was Mrs. Whitmore a member of the Board?

MR. WATTS: She was a member of the Board at that time.

MR. WALTON: How many times if you know — I take it that you were there?

MR. WATTS: Yes.

MR. WALTON: How many times, if you know, did Mr. Ervine make this offer to the Board?

MR. WATTS: I know that it was made clearly, it must have been 15 or 20 minutes later.

MR. WALTON: How many times in all?

MF. WATTS: I would say probably — I know of two — and I think it was said three times.

MR. WALTON: And what was the Board's reaction on the first occasion?

MR. WATTS: They ignored it the first time and there was no conclusive answer ever given later on they ignored his request both times.

MR. WATTS: You have heard both Mr. Swick and Mr. Watts — Mr. Blue, pardon me, testify as to the truth or lack of truth of matters set forth in [347] the open letter. Have you not?

MR. WATTS: Yes.

MR. WALTON: With respect to paragraph 5 of the open letter, can you furnish the Board with any information as to whether or not the matters therein contained can be substantiated, or true or false?

MR. WATTS: This quotation "got 1/3 of the faculty this year and 1/2 of the remainder next year" was a quotation of a statement that was made to me by Mr. Fabricius on April the 3rd, 1959, when I was in his office conferring with him about an extension of time for summer school. At that time — this statement was made out of the blue and he ended up with

the expression "there's too much deadwood in this system" and it was in reference to the fact that I had — that he stated — Mr. Fabricius stated if he made a hardship exception in my case, he might have to do it with some of the other teachers who were effected by this new school regulation. And I stated that I felt that if they had valid reasons for having an extension of time that no exception should be made in my case. Then he made the statement I just referred to.

MR. WALTON: You are absolutely sure that these words were used by Mr. Fabricius?

MR. WATTS: I am.

MR. WALTON: Was anyone else present?

MR. WATTS: No one was present.

MR. WALTON: What time of day did this take place?

MR. WATTS: About a quarter to five, or four thirty.

MR. WALTON: In Mr. Fabricius' office?

MR. WATTS: Yes.

MR. WALTON: What day of the week — was it a school day?

MR. WATTS: It was a Tuesday or Wednesday I believe.

MR. WALTON: Should Mr. Fabricius take the stand and deny that he made any such statement, can you account for that discrepancy in your testimony and his, in any way?

MR. WATTS: Yes. I rather imagine that he doesn't remember too much of the discussion. I remembered it because it made an impression on me. I was quite shaken by it because I felt he was referring to me possibly, and I still don't know. I assume I was one of them he was referring to.

MR. WALTON: Please state your — is there any information which you can present to the Board in addition to that which has been introduced?

MR. WATTS: On item 5?

[348] MR. WALTON: Yes.

MR. WATTS: Yes. In the matter of — this matter of property owners, I believe there were 20 mem-

bers of the faculty who owned property at that time in the Spring of 1959, and instead of 18 as has been previously stated.

MR. WALTON: Other than paragraph 5, Mr. Watts can you furnish the Board with any information which it has not already received from yourself or other witnesses with respect to whether or not these matters are true or can be substantiated?

MR. WATTS: No, I can't recall now of anything that hasn't already been mentioned by two or maybe more people.

MR. WALTON: And were I to propose to you the same questions with respect to the statements contained in the petition for recall, would your answer be substantially the same as Mr. Swick's?

MR. WATTS: Yes they would.

MR. WALTON: Mr. Watts, do you happen to personally know whether or not any copies of the Open Letter were ever delivered to Mr. Fabricius?

MR. WATTS: Yes, I personally handed him one copy and also to Mr. Frampton the same time.

MR. WALTON: Do you recall what date this was?

MR. WATTS: It was May the 18th.

MR. WALTON: Where was that?

MR. WATTS: It was in the Grade School building in the morning, it was in what is now called or normally the Health Office of the School Nurses Office. At the end of school Mr. Frampton uses it as a room to check over the teacher's report at the end of the year and has a long table there with all of his papers on them. And I stopped in the front of the building I saw Mr. Fabricius car, and that's the reason I knew he was there and I believe Mrs. House was in the Office, I asked her where Mr. Fabricius was, and she said she thought he was down in Mr. Frampton's room, and Mr. Frampton and Mr. Fabricius were there talking business. And I handed one open letter to Mr. Frampton and one to Mr. Fabricius and he tossed it on the table.

MR. WALTON: Who did?

MR. WATTS: Mr. Fabricius tossed his on the table.

MR. WALTON: Do you know what Mr. Frampton did with his?

MR. WATTS: I do not. I rather think he kept it in his hand.

MR. WALTON: Well did Mr. Fabricius look at it?

MR. WATTS: I didn't notice him look at it at the time, no.

[349] MR. WALTON: I see. Did he acknowledge receipt thereof?

MR. WATTS: Not in words to that effect. He just asked me a question and that was all.

MR. WALTON: What was the conversation?

MR. WATTS: The question he asked me was, he said, Watts you've been in this since the beginning, he says what's the cause of all this. And as I went out the door, I answered.

MR. WALTON: What did you say?

MR. WATTS: I said, I think to a large extent, it's a persecution complex. And as I went down the hall, he gave me an answer.

MR. WALTON: And do you recall his answer?

MR. WATTS: I do.

MR. WALTON: Will you tell the Board what his answer was?

MR. WATTS: I prefer not to say because I don't normally use that kind of language, especially in public. It's a word I don't use myself. It's two words.

MR. WALTON: The words of profanity?

MR. WATTS: Well, extreme slang, or profanity, I would call them.

MR. WALTON: Perhaps you could state to the Board what the first letters of the words were?

MR. BURR: Why don't you just come out and say it, I'm sure this is a mature public here. Mr. Watts, you haven't been so reluctant up to this point.

MR. WATTS: I haven't used any profanity, yet, either.

MR. WALTON: Mr. Burr, we will ask the questions at this time, and if Mr. Fabricius wishes to use these words, that's certainly his prerogative.

MR. BURR: I don't think anyone's lacking in intestinal fortitude.

MR. WALTON: I'm going to ask the witness to state what the initials of the words used were?

MR. WATTS: He shouted the word as I went down the hall and it was b.s.

MR. WALTON: Now, this was on May 18th, wasn't it?

MR. WATTS: That is correct.

MR. WALTON: And was school then in session?

MR. WATTS: No, it was three days after school was out.

[350] MR. WALTON: Should Mr. Fabricius take the stand and deny that that expression was used on that occasion in that manner, can you account for such a denial, should one be forthcoming?

MR. WATTS: If such a denial were forthcoming. I doubt if he ever remembers that it was ever said.

MR. WALTON: I believe Mr. Fabricius has already testified, has he not, that he never received a copy of the open letter?

MR. WATTS: I believe he said that I had never given him one, yes. And then later, I believe in his testimony, sometime later, something was said that to his knowledge he didn't remember receiving one.

MR. WALTON: Where had you come from prior to the delivery of the open letter to Mr. Fabricius and Mr. Frampton?

MR. WATTS: Well, I had been in the living room of Mr. Walter Blue's home, stapling these open letters to the School Board together.

MR. WALTON: Do you know whether or not any copies were ever delivered to members of the School Board?

MR. WATTS: Yes. The same morning I delivered copies to several members of the Board.

MR. WALTON: When? With respect to delivery of the same to Mr. Fabricius.

MR. WATTS: Well, it covered a period of about at least an hour because Mr. Jeffrey was aboard the ship, and I missed him the first time I went to the dock, and I went to the Alaska Steamship Office where his office is, they told me he was on the dock, I went

back. I delivered a copy to Mr. Casey and also later I went by and delivered a copy to Mrs. Whitmore and I was there sometime.

MR. WALTON: Now, I'm asking you this question. Do you recall who you delivered the open letter to first?

MR. WATTS: I remember my first objective was to find Mr. Fabricius. And his car was not at the High School.

MR. WALTON: Do you remember who you delivered it to first?

MR. WATTS: I believe I delivered it to Mr. Fabricius and to Mr. Frampton first. I believe that was it.

MR. WALTON: Now, Mr. Watts, I'm going to hand you Board's Exhibit 4. Have you read it?

MR. WATTS: I have.

MR. WALTON: I believe it's supposed to be a signature by the Kirkpatrick Printing Co.

MR. WATTS: Yes.

MR. WALTON: With respect to Mr. Walter Blue. May I ask if the Board has an exhibit signed by Mr. Headrick, Board Exhibit.

[351] MR. CASEY: Board's Exhibit 3.

MR. WALTON: Thank you. I hand you now Board's Exhibit 3. Would you read it to yourself. Is there any statement in Board's Exhibit 3 that you have reason to believe is not correct?

MR. WATTS: I have two.

MR. WALTON: What are they?

MR. WATTS: His personal opinion about whether city equipment should be used for addressing letters for these open letters to the school board, that is a matter of his own opinion and I'm not in judgment on that.

MR. WALTON: Second?

MR. WATTS: Second, I was not at City Hall at any time that morning.

MR. WALTON: The morning of what date?

MR. WATTS: The morning that I was supposed to have been there was May the 18th, 1959 and that letter was dated April 23rd, 1959. Almost two and a

half to 3 weeks before the event was supposed to have occurred.

MR. WALTON: That's very interesting. This letter is written to Dear George, that's Mr. Fabricius?

MR. WATTS: That is correct.

MR. WALTON: Signed apparently by one, Jerry Headrick.

MR. WATTS: Acting City Manager at the time.

MR. WALTON: Mr. Headrick appears to say here "I am positive as to the identity of those members who were in the City Hall the day they were using the machine. They were Walter Blue, Bill Swick and James Watts" end quote. Have you ever been in City Hall on any day with Mr. Blue or with Mr. Swick using the city machine referred to?

MR. WATTS: Are you asking me that question?

MR. WALTON: Yes sir.

MR. WATTS: I have not.

MR. WALTON: Do you believe that Mr. Headrick makes reference to the day of May 18, 1959, because he states that "if I had known the contents of such they sure as word crossed out would never have used city equipment" end quote. Is he referring to the Open Letter?

MR. WATTS: It's the only thing he could have been referring to.

MR. WALTON: Did you, sir, participate directly, or indirectly in the preparation of the open letter?

[352] MR. WATTS: I did.

MR. WALTON: And in connection therewith, did you have occasion to secure the statements of various persons in whole or in part substantiating the contents of the open letter, Exhibit 7?

MR. WATTS: Will you ask that again, please?

MR. WALTON: During the course of the preparation of the open letter, did you or members of your association have occasion to secure statements from people in any way substantiating the contents of the open letter?

MR. WATTS: Do you want me to qualify that statement if I can, or do you want me to say yes or no?

MR. WALTON: Let me mark — may I inquire is it Exhibit 7? May I hand you Appellants Exhibit 22 — let me first hand it to Mr. Burr. Will you please identify Appellants Exhibit 22?

MR. WATTS: This is a statement signed by several teachers in reference to a quotation supposed to have been made — alleged to have been made on January 19, 1959 by Mr. Fabricius at a Grade School Teachers meeting.

MR. WALTON: Who are the teachers who appeared to sign it?

MR. WATTS: William Swick, James Watts, Sue Hollenbeck and Anna Svedlund.

MR. WALTON: Do you know approximately when it was signed.

MR. WATTS: Approximately October, 1959.

MR. WALTON: Were you there when it was signed?

MR. WATTS: Yes.

MR. WALTON: Did you witness all those persons signing it?

MR. WATTS: I did.

MR. WALTON: Mrs. Svedlund?

MR. WATTS: Yes.

MR. WALTON: And Mrs. Hollenbeck?

MR. WATTS: Yes.

MR. WALTON: I would like you to have an opportunity to look at Appellants Exhibit 23, Mr. Burr.

Will you please identify Appellants Exhibit 23?

MR. WATTS: This is a quotation from a short statement alleged to have been made by Mr. Fabricius at the first general Faculty Meeting in 1958.

[353] MR. WALTON: Does it bear any signatures?

MR. WATTS: It's signed by James Watts, William Swick and Anna Svedlund.

MR. WALTON: Do you know when that was signed by those persons approximately?

MR. WATTS: Approximately November, 1959.

MR. WALTON: Do you recall witnessing the signature of Mrs. Anna C. Svedlund?

MR. WATTS: Yes.

MR. WALTON: At the time did you discuss with

her the matter referred to in Appellants Exhibit 23?

MR. WATTS: Yes.

MR. WALTON: Did she approve of the same?

MR. WATTS: She certainly did.

MR. WALTON: No further questions. Excuse me — no further questions.

MR. BURR: Mr. Watts, Exhibit 23 you've just stated was prepared in November, 1959?

MR. WATTS: Correct.

MR. BURR: That's some 5 months after the Exhibit 7 was published in Seward, 5 or 6 months?

MR. WATTS: Exhibit 7 is the Open Letter? Yes.

MR. BURR: What were you trying to do? Justifying the damage that already been done?

MR. WATTS: No, not at all.

MR. BURR: What was the occasion of getting this statement 5 months after you published the letter then?

MR. WATTS: By this time we had discovered that.

MR. BURR: That there was some need to justify a statement before you made it?

MR. WATTS: Well, it's very necessary sometime to protect yourself.

MR. BURR: Oh, I see. You felt there might be some repercussions with the publishing of Exhibit 7?

MR. WATTS: I was quite aware of it.

MR. BURR: Were you aware of it in May of 1959?

MR. WATTS: Not to the extent I was in November or October.

MR. BURR: Exhibit 7 is a statement attributed to Mr. Fabricius on Labor Day in 1958 — Exhibit 23, I'm sorry. Labor Day of 1958. That's [354] commencement of his first year.

MR. WATTS: It wasn't Labor Day — it was the day after Labor Day, whenever he had his Faculty meeting — the first one.

MR. BURR: This says Mr. Fabricius said in his first general faculty meeting on Labor Day, 1958. Did you prepare this statement or didn't you? You signed it.

MR. WATTS: I did.

MR. BURR: Well, what does it say?

MR. WATTS: On Labor Day, 1958 — this was signed probably 14 months afterwards. Some of our faculty meetings had been held on Labor Day, some of them held the first day of school starts, which is the next day following.

MR. FABRICIUS: There was no meeting on Labor Day.

MR. WATTS: Are you sure?

MR. BURR: That's your paper, Mr. Watts.

MR. WATTS: I believe it to be true at the time I typed this up. It's a matter of one day when it occurred.

MR. BURR: One day doesn't make any difference?

MR. WATTS: A year and a half.

MR. BURR: But you did in November of 1958 some 5 or 6 months after Exhibit 7 was published?

MR. WATTS: Approximately, yes.

MR. BURR: Now, what part of Exhibit 7 — I'm at a loss — this statement has to do — appears to be in different — Tell me what part of Exhibit 7 this statement was meant to reenforce?

MR. WATTS: This statement?

MR. BURR: Yes. Exhibit 23 — Appellants exhibit 23.

MR. WALTON: Has the witness so testified, Mr. Burr?

MR. BURR: If he hasn't so testified, then I fail to see the relevance in this.

MR. WALTON: I'll explain it — The relevance is this, this is introduced to corroborate earlier testimony already given by Mr. Blue, to corroborate by Mrs. Svedlund's signature. Just as the Board has endeavored to corroborate certain things by written statements of other persons who are not present. That's the only purpose for which it is introduced.

[355] MR. BURR: Oh, I see. You testified a moment ago that it was you who heard this statement from Mr. Fabricius, about the threat of getting 1/3 of the faculty this year and half of the remainder next year.

MR. WATTS: Yes.

MR. BURR: Nobody was present besides you and Mr. Fabricius?

MR. WATTS: That is correct.

MR. BURR: This was a private conversation?

MR. WATTS: That is correct.

MR. BURR: In his office?

MR. WATTS: Yes.

MR. BURR: No witnesses.

MR. WATTS: To my knowledge, no witnesses.

MR. BURR: Did you make any statement to Mr. Fabricius at that time about your intent to make this statement which you attribute to him a matter of public record by telling the public about it?

MR. WATTS: At that time I did not expect it to be used as a matter of public record.

MR. BURR: You just filed it back in your head and said well, I'll just remember that, maybe it'll come in handy some day?

MR. WATTS: When people speak to me the way Mr. Fabricius did, it makes an impression on me.

MR. BURR: Did you think that he had libeled you or slandered you in any way?

MR. WATTS: To the extent that both of us — that only two of us were in the room, I was not libeled or slandered at that time.

MR. BURR: Well as point of fact, you testified you weren't even sure he was talking about you, didn't you?

MR. WATTS: We were concerned with myself first, then we brought in relatively the other 4 or 5 teachers, who would be effected by this regulation.

MR. BURR: But you stated on direct examination that you were not even sure right now whether that statement was meant to include you or exclude you. Didn't you say that on direct examination? That you didn't know whether you were included in this group or not, even now.

MR. WATTS: No, but I assumed that I must have been.

MR. BURR: But you don't know?

MR. WATTS: But I could easily have been in 1/2 of the remainder that would be here the next year.

MR. BURR: Do you customarily make matters of public records the contents of private conversations of your employers?

MR. WATTS: State that again please?

MR. BURR: Do you consider it an impropriety to publish matters of private conversation between yourself and your employer?

MR. WATTS: In this case the Superintendent and myself are both public employees, and we are responsible to the public.

MR. BURR: You see no impropriety in the publication of the contents of a private conversation between the Superintendent and a school teacher, Mr. Watts, is that right?

MR. WATTS: Under the circumstances arising that spring, I do not.

MR. BURR: You believe Mr. Fabricius to be a liar, Mr. Watts?

MR. WATTS: That is a question that has come up frequently at this hearing.

MR. BURR: It seems to be a matter concerning which we are interested.

MR. WATTS: It should be.

MR. BURR: Do you have an opinion about this matter?

MR. WATTS: Yes. Would you like to state your question so I can answer it in a better and easier manner, please?

MR. BURR: Well, do you have an opinion as to whether or not he tells the truth or doesn't, under oath?

MR. WATTS: Under oath? I believe that Mr. Fabricius believes he is telling the truth when he is under oath.

MR. BURR: Do you believe he is telling the truth? I'm not concerned with what he thinks. Do you think he is?

MR. WALTON: Objection to the form of questioning there.

MR. BURR: When a person doesn't understand my questions, Mr. Walton, I'll attempt to elaborate, but I don't appreciate your telling me what he doesn't understand.

MR. WALTON: I'm sure you don't, but Mr. Casey, I'm going to object to the form of questioning. If this witness is going to be asked has Mr. Fabricius told an untruth, then he should be invited to consider some particular statement. But otherwise what is it that Mr. Burr is referring to? I don't know?

MR. BURR: I haven't heard the witness complain, Mr. Walton.

MR. WALTON: No, but that's what I'm here for — to complain to objectionable questions.

MR. BURR: Then complain. Do you understand my question, Mr. Watts?

MR. WALTON: I'm asking for a ruling, please, Mr. Casey.

[357] MR. CASEY: Objection overruled. Proceed, please.

MR. BURR: Do you understand the question, Mr. Watts?

MR. WATTS: There's been a small lapse of time, will you repeat it, please?

MR. BURR: Well to refresh your recollection, you've heard Mr. Fabricius testify under oath, several times, have you not? On one occasion for some extended period?

MR. WATTS: Yes.

MR. BURR: Do you believe at this time that all or any portion of that testimony was false?

MR. WATTS: To the extent that it does not agree with my belief of what is true about those circumstances

MR. BURR: Can you reconcile those differences?

MR. WATTS: Yes.

MR. BURR: In such a manner that both of you are telling the truth about the same thing?

MR. WATTS: We'll have to come to the question of what we mean by truth. If we want to limit by saying the truth as we know it, as we rationalize the thing to be, then I do believe that, I have no reason to dis-

believe that Mr. Fabricius does not believe what he is telling to be the truth.

MR. BURR: Was it your intention by the publication of Exhibit 7 to cause the removal of Mr. Fabricius?

MR. WATTS: It was not my intention to try to instigate the removal of Mr. Fabricius by the publication of this material. Our only purpose was to, ours and mine, only purpose was to try to reach the School Board, when we had failed on numerous occasions to reach them, to get them to consider the problems that we felt were important to us at this time.

MR. BURR: What did you hope to accomplish by reciting the contents of a private conversation between yourself and Mr. Fabricius to the public of Seward of a very derogatory nature, Mr. Watts? What did you hope to accomplish? Tell me that?

MR. WATTS: Well, to get back to my statement of a few moments ago.

MR. BURR: Just answer my question.

MR. WATTS: This will clarify it. I stated at that time that we are public employees and we are responsible to the public, to the electorate of this town and the School is a very important thing in any community, and it is our responsibilities, both the Superintendents, the faculty, the School Board to face our responsibilities, our problems the best we can for the electorate of the community [358] and when all contacts and —

MR. BURR: Mr. Watts, you still haven't answered my question. Let's get back to it before you forget it again.

MR. WATTS: All right.

MR. BURR: What did you hope to accomplish by publication of the contents of a private conversation to the public of Seward? What did you personally hope to accomplish? Just answer my question, don't give me a recitation, if you can.

MR. WATTS: We wanted the School Board to face our problems.

MR. BURR: Did you want the School Board to admonish Mr. Fabricius to be careful what he said when

he was in his own office in a private conference, is that what you wanted? Did you want the School Board to tell him what he could say in his own office?

MR. WATTS: If it effects the welfare of the school, yes.

MR. BURR: It didn't effect you though, did it?

MR. WATTS: You're referring to item No. 5?

MR. BURR: Yes.

MR. WATTS: It certainly did effect me.

MR. BURR: You know this to be a fact?

MR. WATTS: That it effected me? Yes.

MR. BURR: Sufficiently so, that you thought the whole public of Seward ought to know about the statement that was made in the confines of this man's office? You had in your possession, the statement that could damage a man's character, publish it. For whose reasons - for whose benefits, your own or somebody elses? That's what I want to know. Can you answer that?

MR. WATTS: Yes. It was for the benefit of all the teachers.

MR. BURR: The benefit of all the teachers.

MR. WATTS: I was specifically under no attack on these matters listed here. I had nothing to gain personally from this.

MR. BURR: But you'll concede, will you not, Mr. Watts, that the disclosure of this statement, assuming that it was made, could certainly have no other results but to damage the reputation of the man who was your employer in the sense that he was your superior, in the administrative setup in this school system?

MR. WATTS: The office of Superintendent is a public responsibility and he is responsible for the superintendent and the office is responsible for its actions and conduct to the public at all times.

[359] MR. BURR: Do you think that the Superintendent is responsible for keeping his conference of such a nature that if all of the teachers with whom he confers sees fit to publish this information, that he is able to answer for it.

MR. WATTS: Say that again, please?

MR. BURR: Do you think that a Superintendent

should monitor his conferences with his employees, namely his school teachers, including yourself, to such an extent that he is willing at any point to place that the substance of that conversation in the public forum to Seward and answer to it, in all respects?

MR. WATTS: I think so as far as it's misleading. It's one of his duties and responsibilities of his job.

MR. BURR: And you also think it's a responsibility of a teacher that picks a random statement out of a conference, to publish this, to publish this matter to the electorate of Seward. Moreover you considered it your responsibility.

MR. WATTS: When all other avenues fail, yes. We had made many efforts to keep this thing quiet.

MR. BURR: Were you seeking a retraction of this statement publicly by Mr. Fabricius, if it were made?

MR. WATTS: We wanted the cooperation of the Board to face our problems.

MR. BURR: Were you seeking a retraction of this statement that you have attributed to Mr. Fabricius and that you said you personally overheard?

MR. WATTS: In what relationship do you mean?

MR. BURR: In the relationship that it was said according to you. Did you want the public of Seward to have a public apology for this statement?

Is that what you wanted?

MR. WATTS: No.

MR. BURR: Well, what did you hope to accomplish by reciting this statement to the public?

MR. WATTS: This was a very concrete example of the situation and what we were facing in the matter of turnover in teachers that Spring.

MR. BURR: Could you not have established that without the recitation of such an adverse statement as that?

MR. WATTS: Well, I believe that anyone has the right to use their best arguments in a debate or in any serious problem such as this, and this was very serious to us at that time.

MR. BURR: Do you know the meaning of the word, propriety, Mr. Watts?

MR. WATTS: I believe I do.

MR. BURR: That — that's all I have.

[360] MR. CASEY: Do you want to have a redirect?

MR. WALTON: Do you think, Mr. Watts, that you or any other AFT members of the AFT overstepped bounds of propriety in their authorizing the circulation and distribution of the open letter?

MR. BURR: I object to the question. That's what we're here to determine that's what you object to a minute ago. Let the Board decide it.

MR. WALTON: Very well, I will await a Board ruling.

Mr. Burr, I believe, has just asked a series of questions along this line with respect to this witness.

MRS. SKINNER: Will you repeat the question?

MR. WALTON: Yes, I asked the witness as follows: do you believe that you or the other members of the AFT overstepped the bounds of propriety in authorizing the circulation and distribution of the open letter?

MR. WATTS: I do not.

MR. WALTON: Excuse me — that answer may be stricken from the record, until the Board has ruled.

MR. CASEY: Objection overruled, proceed.

MR. WALTON: Your answer, sir?

MR. WATTS: The same question — I do not.

MR. WALTON: No further questions.

MR. BURR: I would like to ask — I neglected to ask Mr. Watts did you look at Exhibit 10 — Board's Exhibit 10? It's the same one you read last night.

MR. WATTS: I saw it just hastily last night. Yes.

MR. BURR: Have you ever seen that before?

MR. WATTS: Absolutely not.

MR. BURR: You had nothing to do with the preparation of that advertising

MR. WATTS: No, not a bit.

MR. BURR: Do you consider the author of this document to be a friend of the American Federation of Teachers, as it is signed.

MR. WATTS: I rather doubt it.

MR. BURR: You choose to doubt this advertisement as representative of the American Federation of Teachers?

MR. WATTS: It is no document of mine. I know nothing about it.

[361] MR. BURR: I have no other questions.

MR. WALTON: Why do you think if this if it was published, was not published by anyone sympathetic to the interests of the American Federation of Teachers. I invite you to examine it.

MR. WATTS: Well, it's rather sensational, the way it is stated.

MR. WALTON: It is apparent, is it not, that it might be an attempt to mock this proceeding?

MR. WATTS: That's the reaction I got when I first saw it.

MR. WALTON: No further questions.

MR. BURR: Mr. Watts, along that line, you've read it and it makes reference to whether teachers can own property, whether teachers can inform parents and taxpayers, whether teachers can hold public office, and whether teachers are secretly blacklisted. Now as to the property issue, I find that it's somewhat similar to the recitation in Exhibit 7 that you have admitted you helped prepare, paragraph 5.

MR. WATTS: For the record, I never compiled any of this letter, but I'm equally responsible for everything in it and that particular quotation, that first part of item 5 is a quotation that I have given as mine.

MR. BURR: The reference — speaking of the reference to the owning of property, Mr. Watts, there is a statement in Exhibit 7 relative to whether teachers can own property or not, isn't there?

MR. WATTS: Yes.

MR. BURR: And there's a similar statement in Board's Exhibit 20, isn't there?

MR. WATTS: Yes.

MR. BURR: So to that extent there is some similarity between your charges and the charges of a friend of the American Federation of Teachers published in the Anchorage Daily Times on the November 10th.

MR. WATTS: There was a thousand of those printed.

MR. BURR: Of what.

MR. WATTS: The open letter.

MR. BURR: But you have no knowledge of the preparation of that Exhibit 20?

MR. WATTS: No.

MR. BURR: Do you know for a fact that your local had nothing to do with it?

MR. WATTS: As Secretary of the Local I should know, and I'm quite convinced that none of them know a thing about it.

MR. BURR: I have no other questions.

[362] MR. WALTON: No other questions.

MR. WALTON: Mr. Casey, we have no further witnesses at this time.

MR. BURR: I will recall Mr. Fabricius as first rebuttal witness. Will you take the stand, please. I should like to remind you, Mr. Fabricius that you are still under oath as a witness for the Board. I should like to have this exhibit marked as the Board's Exhibit, the next number, whatever it is.

State for the record what that document is?

MR. FABRICIUS: This is a letter given to me by the president of the Seward District Teacher's Association.

MR. BURR: When did you receive that letter?

MR. FABRICIUS: On November 9th — this year

MR. WALTON: What year, sir?

MR. BURR: 1960. You have heard Mr. Blue and Mr. Watts testify about the truthfulness of the allegations in Exhibit 7 — Board's Exhibit 7, Mr. Fabricius and you will recall that on direct examination your testimony was somewhat different from the testimony of Mr. Watts and Mr. Blue?

MR. FABRICIUS: That's right.

MR. BURR: Now, is there any part of your earlier testimony that inview of their testimony, you would like to change or modify in any manner?

MR. FABRICIUS: I haven't said anything that I wish to change or modify, either one.

MR. BURR: Well, do you have any explanation about the apparent inconsistency between the statements that you have made earlier and the statements that both Mr. Blue and Mr. Watts have made?

MR. FABRICIUS: The only inconsistency I can see would be in the matter of intent.

MR. BURR: Have you anything else, Mr. Fabricius, that you feel in the light of the testimony presented by the appellants in this case, that you feel you'd like to correct or to modify in any manner?

MR. FABRICIUS: First of all, I'd like to make a correction on some statements that were entered, I believe in Exhibit here, regarding the first meeting of the Seward teachers in which I am alleged to have made the statement to the effect or something about that I was to be the boss and no teachers could talk to the Board. I think there are plenty of other witnesses here who will testify to the discrepency there.

MR. BURR: Did you make that statement?

MR. FABRICIUS: I did not. And in the meeting which took place in the Elementary School, at which time I read a letter from the Seward School Board [363] more or less directing me to call to their attention certain matters to the attention of the Elementary teachers. I'm quite certain I made no derogatory statements regarding the Seward District Teachers Association at that time and in fact, I rather doubt that I even mentioned it. As for telling teachers that no two teachers could talk in the hall, that's completely false and it would be an idiotic statement to be made by any administrator. The talk of buzz sessions came out, I believe that Mrs. Hollenbeck said I made the remark about buzz sessions. I happen to know that this word buzz sessions was used, but it has never been a statement that I have used, and I think there will be plenty of witnesses to testify to that. There was also the statement attributed to me, something about remembering my enemies. That's another statement that I would call completely erroneous. And as for saying something about meeting the teachers in the corridor after, I certainly can remember nothing of such a statement. I will admit that in my talk at that time I was under a good bit of strain because it was a situation that you don't often get into. But certainly those statements were not made by me.

MR. BURR: You heard one of the witnesses for the appellants testify that there was that was construed to be a rule that teachers had to get leave from the front office to go to the rest room. Did you have

any such regulation as that?

MR. FABRICIUS: I never heard of a more ridiculous statement in my life.

MR. BURR: Well, you heard that testimony?

MR. FABRICIUS: I certainly did.

MR. BURR: Was there any truth in it?

MR. FABRICIUS: Not one iota of truth in it.

MR. WALTON: Objection. Now, Mr. Casey, we wish to formally note that that was not the testimony. The testimony pertained to the effect of a regulation, not that was the regulation. We wish to note our objection.

MR. FABRICIUS: Might I state that our regulations that we have in our school now are almost identical with the regulations in effect at that time and I don't think you will find our teachers here in this building or the other building now, who will say that such regulations have any such effect whatsoever. The regulations put in are for the benefit of children not for the hampering of natural activities of teachers.

MR. BURR: You've heard Mrs. Davis testify — I'm sorry, go ahead.

MR. FABRICIUS: That's enough.

MR. BURR: You've heard Mrs. Davis testify that in effect she was fired for personal reasons. Does that coincide with your recollection of her release?

[364] MR. FABRICIUS: Mrs. Davis, the matter of her release was something that was brought up before the Board. The Board was made aware of the fact that I didn't feel that I could continue with her and some discussion took place about it, and it was decided then that at the end of the school year, we would terminate her and she would receive a month's vacation pay. Mrs. Davis came into my office that evening and subjected me to considerable personal abuse — abusive language as a result of it, and wanting to get a lot of reasons and after being subjected to this abuse, I simply said I'm not going to give you any reasons now. At the next Board meeting, Mrs. Davis appeared before the Board regarding this. And I would say that at that time she was abusive to both me and to the Board regarding her dismissal to come at the end of the term. Following that, she continued

her employment for about 2 days. Well, it was rather, I would say, an unusual situation of having an employee working directly under you to continue in your employment after having gone to you with personal abuse and to the Board, so I simply went in to her and told her one day, I said, well this is a ridiculous situation to continue this way and I'm just closing you out as of now. That's practically the identical words.

MR. BURR: Did you publish this abusive language of Mrs. Davis for the public at Seward?

MR. FABRICIUS: I certainly did not.

MR. BURR: Did you make any attempt to do so?

MR. FABRICIUS: No.

MR. BURR: Do you have any other comments on the statements of the witnesses that you have been presented?

MR. FABRICIUS: Well, I would like to make one statement concerning Mrs. Hollenbeck. That statement to the effect that she was fired for looking out of the window. I had very few contacts with Mrs. Hollenbeck, in fact, the only remark about looking out the window I came down the corridor one day and she was supposed to be on playground duty. The children were outside, but she was doing her playground supervision from the inside looking out, and I did call that to her attention. And as far as the oooh-la-la and all that, that is too silly to even be given consideration.

MR. BURR: Any further comments, Mr. Fabricius?

MR. FABRICIUS: I would like to comment on Mr. Trevethan's testimony. Mr. Trevethan came in on the tail end of a conversation and gave out statements that could only have been of his own imagination. It so happens that I remember very distinctly my conversation with Mr. Kielcheski that night, because they were made under rather unusual circumstances. I was over in the Grade School and I don't recall who informed me that I can't say, the rumor was going around that I had said that the next time Mr. Kielcheski showed up at the Grade School, I was going to throw him out. So that evening, I told my wife, I said, I'm not going along [365] with something like that. So

I went down to see Mr. Kielcheski that evening. And I asked him if he had heard such a rumor, and he said yes, I have. I said, just forget it, if I have something to say to you, I'll come down and say it. It won't have to be by somebody else carrying it to you. And I said, we've had our little differences and that has nothing to do with it, I said, Seward seems to be full of rumors, I said there's rumors all the time. Then we fell into a slight discussion about schools and I did remark about the situation ag Wrengell. Andas a matter of fact, the situation we were discussing happened about 5 years after I left Wrangell, in which I think there was 10 out of 14 teachers, something like that, that issued an ultimatum to the School Board that if they didn't fire the Superintendent, they were going to quit. And the School Board took them up on that and as a result they had quite a hassle and I would say there was probably about 80% of the teachers that were on that list. Now I can't see going into it further, but for the matter of record, if anybody wanted to take the time to find the truth on this, you can go back to Wrangell and check the records and I'll think you'll find in my 15 years as Superintendent in Wrangell I asked for the non-retention of possibly three teachers.

MR. BURR: In 15 years?

MR. FABRICIUS: That's right.

MR. BURR: What were the reasons?

MR. FABRICIUS: One was dismissed for just plain drunkeness.

MR. BURR: What was the reason for the three, if you remember?

MR. FABRICIUS: Well, for incompetence, that's a matter of record.

MR. BURR: That's in 15 years — an average of 1 every 5 years.

MR. FABRICIUS: That's right. We had other teachers that left, but as far as non-retention, no. How Mr. Trevethan could have come up with a statement that I had ever made, to say firing 80% of the teachers in Wrangell, I certainly haven't the slightest idea.

MR. BURR: Have you any further comments about this conversation?

MR. FABRICIUS: That, to the best of my knowledge, was the tone of the conversation.

MR. BURR: Have you any further comments about the statements of any other witnesses presented by the respondents, either a clarification or a denial?

MR. FABRICIUS: Well as far as you might say, arbitrary firing, of Mr. Condor. Certainly Mr. Condor was not fired, he presented a resignation. He did not want to abide by regulations made and approved by the Seward School Board.

[366] MR. BURR: Regulations pertaining to what?

MR. FABRICIUS: Generally to the working day for one thing.

MR. BURR: Such as?

MR. FABRICIUS: The time to get there in the morning and the time to leave in the evening.

MR. BURR: What time did he customarily get to school in the morning?

MR. FABRICIUS: Well, if he was going to ride the bus which he insisted on doing, he could not get there by the time he was supposed to be on duty. And if he was going to ride in the evening he would have to leave earlier than was provided by in the regulations.

MR. BURR: Did you so advise Mr. Condor?

MR. FABRICIUS: I certainly did.

MR. BURR: Did he expect some special dispensation to ride the school bus?

MR. FABRICIUS: He apparently did, because he made the remark that, well I don't have a car. And I said, well your wife has one, and his remark to that was, yes, she works in the AGS and she has to get there on time. And I remarked to him then, why don't you buy a car? He said, I don't have the money. I said, well, you can move to town. Well, I can't do that either, I've got cheap rent out here. I said, frankly, your financial condition and your family situation is no problem of mine. That's something you have to work out for yourself.

MR. BURR: Both he and his wife were employed at that time?

MR. FABRICIUS: Yes.

MR. BURR: Did this have any bearing on his forced resignation, as has been described?

MR. FABRICIUS: I wouldn't say that it was a forced resignation at all. It was perfectly voluntary.

MR. BURR: Did you ask him for a resignation?

MR. FABRICIUS: I certainly did not.

MR. BURR: Did he tender it to you voluntarily?

MR. FABRICIUS: He did.

MR. BURR: Have you any other comments on the statements of Mr. Blue or Mr. Watts?

MR. FABRICIUS: There have been so many statements made I could hardly recall which one you're referring to.

[367] MR. BURR: I don't have any notes in particular here. You have heard their comments on the items 1 through 10 in Exhibit 7?

MR. FABRICIUS: Yes.

MR. BURR: Do you wish to reaffirm or qualify your earlier testimony in that regards?

MR. FABRICIUS: I believe my earlier testimony was just as I still feel about it.

MR. BURR: I have no other questions.

MR. WALTON: You're quite sure, are you Mr. Fabricius, in your first meeting with the Faculty in 1959 that you did not state in words to the following effect, I'm boss and no one can talk to the Board directly?

MR. FABRICIUS: I'm quite certain of that, sir.

MR. WALTON: Is it possible you might have said that?

MR. FABRICIUS: Why do you say, is it possible, I said I was quite certain I didn't make the statement.

MR. WALTON: Is it possible?

MR. FABRICIUS: And I believe there are witnesses here who will testify to that effect.

MR. WALTON: Who?

MR. FABRICIUS: There are a number here who are willing to testify to that.

MR. WALTON: I see. Is it possible you did say that?

MR. BURR: I'll object to the harrassing tactics. The man has answered the question. He said he doesn't believe that he said it.

MR. WALTON: Mr. Casey, I think the Board will agree that this is the kind of question Mr. Burr has asked repeatedly. I haven't objected to harrassing. I don't think this is harrassing. I'm interested in asking this question and I would like to have a ruling.

MR. CASEY: Objection overruled. Proceed, please.

MR. WALTON: Is it possible that you might be mistaken, Mr. Fabricius?

MR. FABRICIUS: Well, anyone can be mistaken, but I don't believe that as a superintendent that I would ever make such a statement.

MR. WALTON: Why?

MR. FABRICIUS: Because it just isn't one that you would make, that's all.

MR. WALTON: The Superintendent wouldn't tell a teacher that they shouldn't go and talk to the Board directly?

MR. FABRICIUS: I don't believe that the statement was made quite in that way. You said that you can't.

[368] MR. WALTON: Yes, the Superintendent wouldn't tell the teachers they can't talk to the Board directly?

MR. FABRICIUS: That's right. I don't think they would because it isn't a matter of talking to the Board directly.

MR. WALTON: Superintendents wouldn't tell the teachers that they can't take their complaints directly to the Board?

MR. FABRICIUS: Our Board policy clarifies that. All they have to do is — I don't think a superintendent would tell them that, no.

MR. WALTON: But you'd put it on paper, wouldn't you? You wouldn't tell them, but you'd write it down, is that it?

MR. FABRICIUS: I say that that is fully explained

in the book of policies. And that it's the responsibility of the teachers to be acquainted with that.

MR. WALTON; Because you wrote it?

MR. FABRICIUS: Because I compiled it and it was approved by the School Board.

MR. WALTON: Were you there when it was approved?

MR. FABRICIUS: I definitely was.

MR. WALTON: Oh really, when was that?

MR. FABRICIUS: Different parts of it were approved at different times.

MR. WALTON: Oh, that's right, we went through that. And you stated there were certain parts you couldn't remember whether or not they were approved, didn't you so testify?

MR. FABRICIUS: It would be a little difficult to remember each time each time any part was approved, yes.

MR. WALTON: And with respect to the January 1959 faculty meeting, Mrs. Hollenbeck attributed to you certain statements such as "remembering my enemies" and I believe you testified today that you were under a good bit of strain and that you were in a situation that you should not get into. What was the situation that you should not have gotten into, sir?

MR. FABRICIUS: I don't recall that I made the statement that I was in a situation which I should not get into.

MR. WALTON: I don't mean to mislead you. I thought you so testified.

MR. FABRICIUS: No, I don't believe I did.

MR. WALTON: Were you in a situation that you shouldn't have gotten into?

MR. FABRICIUS: No, I don't think I was.

[369] MR. WALTON: You don't think a teacher should be in a position — shouldn't be in a position where you have to criticize — I'll withdraw that question.

RECORDER: All of it?

MR. WALTON: All of it. You state that you were under a good bit of strain during that address to the faculty. What was the reason for that, sir?

MR. FABRICIUS: Well, after all, when you go before a faculty at instructions of the Board with what would be somewhat of a reprimand to certain ones in there, and the fact that I was not too well acquainted with them, would be a strain, yes.

MR. WALTON: And it was painful for you to do that, was it?

MR. FABRICIUS: Well, it wasn't pleasant.

MR. WALTON: It was unpleasant?

MR. FABRICIUS: I said it wasn't pleasant.

MR. WALTON: Couldn't it better to say it was unpleasant?

MR. FABRICIUS: I believe you're bandying words, now.

MR. WALTON: No, I was just asking a question, Mr. Fabricius, perhaps you can answer it, was it unpleasant?

MR. FABRICIUS: In a sense yes.

MR. WALTON: And, you were only carrying out the instructions of the Board, weren't you?

MR. FABRICIUS: Well, I was in accord with it or I would have objected to.

MR. WALTON: Certainly, in fact, you even wrote the letter to yourself.

MR. FABRICIUS: No, you are mistaken. I did not.

MR. WALTON: Well, who did?

MR. FABRICIUS: One of the Board members wrote it and I did hear the testimony where it felt that I had had a hand in it, but it just so happens, that I didn't have.

MR. WALTON: I see. Who wrote it?

MR. FABRICIUS: I think Mr. Jeffrey compiled most of it.

MR. WALTON: Mr. Jeffery is the only ex-Board member who is not in Alaska, today, isn't he?

MR. FABRICIUS: I believe so.

MR. WALTON: Why do you think he wrote it?

[370] MR. FABRICIUS: Well, his wife happened to be secretary of it. And frankly I don't see that who wrote it has much to do with it inasmuch as it was approved by the Board.

MR. WALTON: Is that so. Who — why do you think Mr. Jeffrey wrote it?

MR. FABRICIUS: I just got through saying that his wife was secretary at the time and it would have been easy for him to compile and bring it for approval to the Board.

MR. WALTON: You don't as a matter of fact know whether he did, or didn't, do you?

MR. FABRICIUS: No, of course I don't, as a matter of fact. I was not present when it was written and not having been present, I couldn't definitely say, could I?

MR. WALTON: Did you ever ask any of the present board members who wrote it?

MR. FABRICIUS: Maybe the secretary wrote it.

MR. WALTON: Did the secretary commonly write such a policy matter for the Board?

MR. FABRICIUS: As long as the Board approved, it wouldn't make much difference who wrote it.

MR. WALTON: When did the Board approve that letter?

MR. FABRICIUS: Don't try to tie me up on the date of that nebulous because I couldn't give it to you.

MR. WALTON: Were you there when they approved it?

MR. FABRICIUS: Yes.

MR. WALTON: It was typed out, and they read it and they approved it?

MR. FABRICIUS: I believe so.

MR. WALTON: Well, were you there or weren't you?

MR. FABRICIUS: I just got through saying I was, Mr. Walton.

MR. WALTON: I thought you said, I believe so. There's no doubt in your mind that you were there when the letter was approved by the Board?

MR. FABRICIUS: That's correct. Inasmuch as I have attended every Board Meeting that has taken place since I've been in Seward.

MR. WALTON: And you specifically remember that particular board meeting, don't you?

MR. FABRICIUS: As far as this letter is concerned, yes. I haven't rehearsed this as much as the appellants, it's very difficult for me

MR. WALTON: Go ahead — I want to hear the rest of that. What was it that you started to say?

[371] MR. BURR: You asked for it.

MR. FABRICIUS: I'd rather not say it.

MR. WALTON: Before Mr. Burr cautioned you to stop talking, what was it that you were going to continue to say.

MR. FABRICIUS: I presume you would like to know, but I don't intend to tell you.

MR. WALTON: You decline to answer, is that it? Do you think that you as a school superintendent is less likely have to respond to questions than other witnesses?

MR. FABRICIUS: My thoughts are my own.

MR. WALTON: But other witnesses are not, is that that it?

Mr. Fabricius, I'm testing your recollections. Course, you remember the Board Meeting in which the letter was approved, don't you?

MR. FABRICIUS: I didn't state that I remembered very clearly, I stated that I remembered it was brought up to the Board and approved, yes.

MR. WALTON: The letter itself, after being typed out, was approved by the Board? Right?

MR. FABRICIUS: Right.

MR. WALTON: And it was later handed to you, was it?

MR. FABRICIUS: I believe so.

MR. WALTON: How many days was it handed to you? Or was it handed to you on the same day it was approved by the Board?

MR. FABRICIUS: I don't recall.

MR. WALTON: Did you ever get the letter?

MR. FABRICIUS: Presumably I did if I took it down and read it to the Faculty, yes.

MR. WALTON: Do you recall that the regular meeting of the School Board was held on January 13, 1959?

MR. FABRICIUS: I wouldn't recall each individual meeting, no.

MR. WALTON: If I were to hand you appellants Exhibit 7, purporting to be minutes of the Seward School Board for the regular meeting, Jan. 13, 1959, which in fact were produced by yourself, would you have any reason to believe that they were not correct?

MR. FABRICIUS: No, I wouldn't have any reason to believe that.

MR. WALTON: I believe it was at that meeting, was it not, that the following took place and I quote from the minutes "Mr. Casey and Mr. Fabricius said a great deal of trouble is being caused by gossip in the Grade School. Mrs. Svedlund, Mrs. Hollenbeck, Mr. Richardson and Mrs. [372] Copeland are the worst trouble makers — deletion, Mr. Fabricius says that possibly a special meeting should be held in order to pass on to the teachers. The Board asked Mr. Fabricius to see these teachers and bring up the matter of professional ethics. It was a result of this meeting, was it not, that you had this January 1959 meeting?

MR. FABRICIUS: It's very possible, I couldn't say.

MR. WALTON: As a matter of fact, the letter itself bears the date January 16, 1959, does it not?

MR. FABRICIUS: That's what's there.

MR. WALTON: Can you tell me after the January 13th meeting, when was it that the Board met to see the letter that was typed on January 16th?

MR. FABRICIUS: I can tell you nothing more than you have right there.

MR. WALTON: I believe that your testimony has been introduced, has it not, that the meeting in which you appeared and discussed professional ethics, was on or about January 18, 1959? Does that jibe with your recollection?

MR. FABRICIUS: I don't recall the date, at all.

MR. WALTON: If I were to tell you that it was on or about January 18, 1959, would you have any reason to dispute it?

MR. FABRICIUS: I wouldn't dispute it as I just got through saying I don't recall the date.

MR. WALTON: And you wouldn't be able to explain, would you, when the regular Board Meeting was between January 13 and January 18th in which this letter was supposedly approved by the Board?

MR. FABRICIUS: I can't give you any more information than is in the minutes.

MR. WALTON: It's possible that your recollection is not correct, on that point, isn't it?

MR. FABRICIUS: My recollection? Well, sir, I can give you only what is there in the minutes.

MR. WALTON: You don't remember independently of the other minutes, is that right?

MR. FABRICIUS: Remembering what is in all the minutes at various meetings, would be impossible.

MR. WALTON: Then you really don't remember the letter being approved at a Board Meeting, is that it?

MR. FABRICIUS: No, I didn't say that. I remembered a discussion of the letter, certainly.

[373] MR. WALTON: Before it was written?

MR. FABRICIUS: Discussion of the necessity, I believe, yes; and as far as the letter, I feel quite certain that the letter was brought before the Board and was approved is enough to satisfy. I believe the president of the Board's signature and the secretary.

MR. WALTON: How often were Board Meetings held at that time of year, do you know?

MR. FABRICIUS: Generally, Board Meetings are once a month. There have been other extra meetings, how many, it would be impossible for me to state.

MR. WALTON: Mr. Fabricius, do you know whether any efforts had been made by yourself or the Board to revoke the teachers certificates of these appellants?

MR. FABRICIUS: To my knowledge, no efforts have been made.

MR. WALTON: Do you know whether or not any correspondence has been directed to any public official in Juneau with respect to the possible revocation of these teachers certificates.

MR. FABRICIUS: I believe at one time I did write to Mr. Matthews in that vein.

MR. WALTON: When was that sir?

MR. FABRICIUS: He gave me an off the cuff statement, not an official statement.

MR. WALTON: You did write to Mr. Matthews, didn't you?

MR. FABRICIUS: That's right.

MR. WALTON: And concerning the revocation of teachers certificates?

MR. FABRICIUS: That's right.

MR. WALTON: Of what person?

MR. FABRICIUS: I don't recall if I even mentioned names. I gave a matter of situations.

MR. WALTON: Do you have a copy of that letter?

MR. FABRICIUS: Pardon?

MR. WALTON: Do you have a copy of that letter?

MR. FABRICIUS: I don't believe I do.

MR. WALTON: That's one of the letters to which you didn't keep a copy?

MR. FABRICIUS: There are many letters that I don't keep a copy of.

MR. WALTON: Which letters in your official capacity did you keep a copy of?

[374] MR. FABRICIUS: This was not in an official capacity. This was written to Mr. Matthews, a personal letter and I received a reply that was in a personal vein. It was not a matter of official, it was a personal communication. Not a matter of Board record or anything else.

MR. WALTON: Do you have that letter?

MR. FABRICIUS: I don't believe I do, no. I would see no point in keepingit.

MR. WALTON: You state that rumors were going around that you threatened to throw Mr. Kielcheski out?

MR. FABRICIUS: That had been a rumor that was brought to me, yes.

MR. WALTON: Who brought you that rumor?

MR. FABRICIUS: I don't recall now.

MR. WALTON: Who do you think spread that sort of rumor?

MR. FABRICIUS: I haven't any idea.

MR. WALTON: Are you sure that someone did.

MR. FABRICIUS: Well, if it was brought to me, someone must have and Mr. Kielcheski had heard the rumor, certainly there must have been a rumor to that effect.

MR. WALTON: Is this the same sort of rumor that led you on January 13, 1959 to tell the Board that teachers Svedlund, Hollenbeck, Richardson and Copeland were the worst troublemakers?

MR. FABRICIUS: I think I testified earlier that we found we were in error in accusing certain of these members of being responsible. I believe the record will bear that out.

MR. WALTON: It was primary on the basis of that rumor, that you addressed the teachers in 1959, January, wasn't it?

MR. FABRICIUS: At the request of the Board.

MR. WALTON: Mr. Trevethan occupies a position of respect in the community, does he not?

MR. FABRICIUS: I might question that.

MR. WALTON: Pardon me?

MR. FABRICIUS: Some might question that.

MR. WALTON: Oh really? Do you question it?

MR. FABRICIUS: That's personal opinion.

MR. WALTON: Well, I want your personal opinion.

[375] Please give it to us.

MR. FABRICIUS: I question his ability at least in his present public position, let's put it that way.

MR. WALTON: What is his present public position?

MR. FABRICIUS: City Councilman.

MR. WALTON: You don't think he's a good city councilman, is that it?

MR. FABRICIUS: That's my right to feel that way.

MR. WALTON: That's the way you feel?

MR. FABRICIUS: That's right.

MR. WALTON: How long have you known Mr. Trevethan?

MR. FABRICIUS: I really truly don't. I'm not personally acquainted with the man at all.

MR. WALTON: Is your acquaintance with him in exercise of his duties as city councilman?

MR. FABRICIUS: I attended one city council meeting at which Mr. Trevethan sat, and I'm perfectly willing to stand on my judgment as a result of that one meeting.

MR. WALTON: It doesn't take long to size up a man, does it?

MR. FABRICIUS: That's your opinion, not mine.

MR. WALTON: I'm asking you, do you share that opinion?

MR. FABRICIUS: In some cases.

MR. WALTON: In his case, yes.

MR. FABRICIUS: If you want to put it that way.

MR. WALTON: Do you put it that way?

MR. FABRICIUS: I didn't, no.

MR. WALTON: Well, did you size him up in that one meeting?

MR. FABRICIUS: As his actions as a public official, let's just say I did and save argument — let's get this thing on the road.

MR. WALTON: No, I'd rather have you tell the truth, rather than trying to please me.

MR. FABRICIUS: I'm not trying to evade you as far as the truth. I gave you my opinion and if I want to say I size him up as a result of one meeting, take it that way, it's fine with me.

[376] MR. WALTON: Now about your opinion as to his veracity?

MR. FABRICIUS: I knew nothing about his veracity.

MR. WALTON: You don't have an opinion as to whether or not he tells the truth, or not, do you?

MR. FABRICIUS: I know nothing about his veracity.

MR. WALTON: Do you have an opinion about it?

MR. FABRICIUS: We all have opinions of probably everyone.

MR. WALTON: Do you have an opinion about him? His veracity?

MR. FABRICIUS: Not especially, no.

MR. WALTON: You have heard his testimony here, have you not, with respect to your conversation?

MR. FABRICIUS: And I would say that he's using a good bit of imagination.

MR. WALTON: Oh, it varies substantially from your recollection, does it not?

MR. FABRICIUS: Pardon?

MR. WALTON: His account varies substantially from yours, does it not?

MR. FABRICIUS: It certainly does.

MR. WALTON: And you think that his is imaginative?

MR. FABRICIUS: I'd rather say that than call a man a liar.

MR. WALTON: You don't think he was lying, do you?

MR. FABRICIUS: I think he has imagined that he heard things, let's put it that way.

MR. WALTON: Why do you think so?

MR. FABRICIUS: Because I remember my statements quite clearly and in that connection

MR. WALTON: Did you ever imagine that you heard things — rumors about people trying to get you perhaps?

MR. FABRICIUS: I don't believe so.

MR. WALTON: Do you think that Mr. Watts imagined his conversation wherein you gave out a threat to get 1/3 and get the 1/2 next year?

MR. FABRICIUS: I stated previously that I don't believe I ever made such a statement to Mr. Watts.

MR. WALTON: Do you think that Mr. Watts is just telling a deliberate lie or do you think he imagined it?

MR. FABRICIUS: I think Mr. Watts was telling a deliberate lie.

[377] MR. WALTON: Mrs. Hollenbeck who testified to things you allegedly said in the January 59 faculty meeting, do you think she's imagining it or telling a deliberate lie?

MR. FABRICIUS: I think Mrs. Hollenbeck has

been using her imagination for a considerable extent.

MR. WALTON: You don't think she's lying, do you?

MR. FABRICIUS: I think it's a matter of intent.

MR. WALTON: Do you think she was lying, sir?

MR. FABRICIUS: Well, if you want to put it that way, I guess we will have to say that she was lying, too.

MR. WALTON: I believe my last question before the tape ran out was do you think Mrs. Hollenbeck was lying in her testimony? What was your answer, sir?

MR. FABRICIUS: It certainly didn't agree with the facts as I know them.

MR. WALTON: Do you think she was lying?

MR. FABRICIUS: Maybe she thought she was telling the truth, I don't know.

MR. WALTON: Do you think she was deliberately lying? Didn't you just say yes when this tape had run out?

MR. FABRICIUS: All right, let's just put it yes, then.

MR. WALTON: Do you think she was lying?

MR. FABRICIUS: Inasmuch as it doesn't agree with what I know to be the truth, I would have to say she was lying.

MR. WALTON: Perhaps she was using her imagination there.

MR. FABRICIUS: Maybe she was.

MR. WALTON: Which do you think was the case?

MR. FABRICIUS: Well, I would prefer to say that I think she was using her imagination in kindness to the woman herself.

MR. WALTON: But you wouldn't want to extend that kindness to Mr. Watts?

MR. FABRICIUS: No.

MR. WALTON: Why?

MR. FABRICIUS: Because I feel differently about Mr. Watts.

MR. WALTON: How do you feel about him? As a matter of fact you're pretty bitter against Mr. Watts, aren't you?

[378] MR. FABRICIUS: Bitter? No, I wouldn't call it bitter.

MR. WALTON: What would you call it? How would you describe your feelings towards Mr. Watts?

MR. FABRICIUS: Mr. Watts doesn't figure very big in my estimation, if you want my opinion.

MR. WALTON: What do you feel, if you say you would extend to Mrs. Hollenbeck and Mr. Trevethan the courtesy of imagination but to Mr. Watts, you extend only the quality of being a liar. And you say you do this because of your feelings for Mr. Watts. What are your feelings toward him?

MR. FABRICIUS: We have to keep this in the bounds of propriety, I suppose, well, I will just have to say that I feel that Mr. Watts was more or less vindicative in his attitude, he was trying to, deliberately trying to injure me.

MR. WALTON: Why would he deliberately try to injure you?

MR. FABRICIUS: That would be a matter of conjecture on my part.

MR. WALTON: Well, have you conjectured on that point?

MR. FABRICIUS: Not to the point of giving any testimony on it, no.

MR. WALTON: You don't have any opinion then that he is trying to injure you, do you?

MR. FABRICIUS: Yes, I do.

MR. WALTON: Do you have an opinion as to why he would try to injure you?

MR. FABRICIUS: First of all, when regular regulations didn't go along with what Mr. Watts wanted, he tried to get special dispensation, he didn't get it, and I feel that was the start of it.

MR. WALTON: What was the special dispensation that he sought to get which he didn't get?

Meeting adjourned at 5:10 pm until 7:30 that evening.

Meeting reconvened at 7:35 pm.

MR. WALTON: I believe my last question, Mr. Fabricius, was what was the special dispensation that Mr. Watts requested that he didn't get?

MR. FABRICIUS: Well that was regarding the training summers for continuing teachers.

MR. WALTON: Can you explain that for us?

MR. FABRICIUS: Well, they were required to get so many hours between a certain period of time, and it would require Mr. Watts to attend school the following summer.

MR. WALTON: He was required by regulation, was he, to attend school in the summer of 1959?

[379] MR. FABRICIUS: I believe it was '59 or 60, 59.

MR. WALTON: And when you say that he made a request that he be permitted to delay the taking of this education until the following summer?

MR. FABRICIUS: I don't recall if it was stated when, but he did request that he be permitted to, in other words, that he not be required to attend the following summer — that summer, yes.

MR. WALTON: And you say that this request was denied?

MR. FABRICIUS: Well, it was not simply a matter of denial, it was a matter of policy set up, requiring that and I couldn't go beyond that for one if I didn't for all and that was the statement I made to him.

MR. WALTON: Now, Mr. Fabricius, if I understand you correctly, this was the reason you say he was vindictive?

MR. FABRICIUS: No, I don't believe I said that.

MR. WALTON: I asked you before why did you think Mr. Watts was vindictive? What was your answer, sir?

MR. FABRICIUS: At the moment I just don't recall.

MR. WALTON: Then tell us today, now, why do you think Mr. Watts was vindictive to you?

MR. FABRICIUS: Well, all the way through, on this, that was possibly the start of it, and the feeling that regulations were going to be much that he didn't want to abide by them.

MR. WALTON: And any other reasons why you think Mr. Watts was vindictive towards you, sir?

MR. FABRICIUS: Other than regulations, I can't say that there were. The regulations that he felt that regulations that were mine and that any regulations that effected him were the result of my thinking.

MR. WALTON: And you think it was because of this that he became vindictive, and because he became vindictive he was lying about you? Is that correct, sir?

MR. FABRICIUS: No, I didn't say that.

MR. WALTON: I thought you said you thought that Mr. Watts had uttered falsehoods about you and I asked you why and you said because he was vindictive, I thought. Isn't that what you testified, sir?

MR. FABRICIUS: I don't recall my exact words, no.

MR. WALTON: Well, is that approximately what you said?

MR. FABRICIUS: I felt that his falsehood that he felt they would gain an advantage to him in some way, yes.

MR. WALTON: What sort of advantage did you think, sir, that he would gain by telling lies?

[380] MR. FABRICIUS: I felt and I still feel that he felt by falsehoods distributed about the community, divides people. He could in a sense undermine my standing with the Board and possibly eventually secure my removal.

MR. WALTON: And you attributed this intent to Mr. Watts, is that correct?

MR. FABRICIUS: Mr. Watts is one, yes.

MR. WALTON: And do you feel that is why — do you believe that Mr. Watts lied during this proceeding, sir?

MR. FABRICIUS: Well, the one statement he gave here, that's one I definitely think that he lied, yes.

MR. WALTON: The one about your alleged statement you said you would get 1/3 and get rid of half of the remainder next year?

MR. FABRICIUS: That's right. He didn't allege, he made the statement as a quote.

MR. WALTON: I see. You have also heard the testimony have you not that this open letter was pub-

lished and circulated after the result of joint action by a group of teachers known as AFT, consisting of not less than 18 members? Have you heard such testimony?

MR. FABRICIUS: Yes.

MR. WALTON: You have heard that 18 teachers in your school system concurred in the decision to publish and circulate that letter, have you not?

MR. FABRICIUS: I have heard it stated, but it is my own feeling that it was not 18 teachers that actually had their heart and soul in it at all, I feel that they were being led by others into such an action, and that acutally the most of them had very little to say about it.

MR. WALTON: Even though they voted for it?

MR. FABRICIUS: That's right.

MR. WALTON: They voted for it, but they didn't really believe it?

MR. FABRICIUS: I think if you notice some of it was by proxy votes.

MR. WALTON: Mr. Fabricius, do you mean to tell me that 12 people left the SDTA on April 8, 1959, to form another union for the express purpose of being able to pursue the action which SDTA didn't want to do, that those 12 people voted for this sort of thing, and you say their heart wasn't it it?

MR. FABRICIUS: Voted for which — what are you referring to?

MR. WALTON: The circulation of the open letter.

MR. FABRICIUS: I don't think some of their hearts was in it, no.

[381] MR. WALTON: Why do you think they did it, Mr. Fabricius?

MR. FABRICIUS: Because I think they were encouraged to do it.

MR. WALTON: Do you have any evidence to that effect, sir, that people were misled by one or two people.

MR. FABRICIUS: I think we may have some testimony that will come out to that effect, yes.

MR. WALTON: Do you know of any such things?

MR. FABRICIUS: Do you mean do I have written proof?

MR. WALTON: Any kind of knowledge, Mr. Fabricius, that 18 people were horn-swoggled by these 2 appellants.

MR. FABRICIUS: Well, I would think the fact that some of them later withdrew from this union, would indicate that they certainly did not have their hearts and souls in it, yes.

MR. WALTON: It would certainly indicate it later on, wouldn't it, after you talked to them.

MR. FABRICIUS: I haven't talked to them.

MR. WALTON: You talked with Mr. Monty Richardson, didn't you, shortly after he was appointed to the Grievance Committee?

MR. FABRICIUS: I never did discuss with Monty Richardson his affiliation with the AF of T, no.

MR. WALTON: As a matter of fact, the special dispensation Mr. Watts requested, was in fact, granted to him on May 8, 1959, was it not?

MR. FABRICIUS: If that's the date the Board took action on it, that would be the date.

MR. WALTON: Then that really doesn't explain for his circulation of the letter, does it? Before you stated you thought he had lied about you, you thought he circulated the letter because he requested something he hadn't gotten. But he did get it on May 8th, didn't he?

MR. FABRICIUS: Yes, but it certainly wasn't on my request that he got it.

MR. WALTON: No, but he did receive the very thing that he wanted.

MR. FABRICIUS: That's right, he did. Not only he, but all the rest of them, don't forget that.

MR. WALTON: Exactly, he was representing a large group of teachers, wasn't he, in his request?

MR. FABRICIUS: I don't know that he was, no.

MR. WALTON: But all the teachers enjoyed the benefits of the acquiescence of it?

[382] MR. FABRICIUS: That doesn't necessarily mean that he was representing them, no, because I

think a number of the others would have been willing to go to school, they didn't ask for any special dispensation.

MR. WALTON: And, if that wasn't the reason for the alleged lies of Mr. Watts', what do you suppose the reason was?

MR. FABRICIUS: He probably has his own reasons. I wouldn't necessarily know all his reasons.

MR. WALTON: Then, why do you think, sir, that Mr. Watts lied and Mrs. Hollenbeck just used her imagination and Mr. Trevethan?

MR. FABRICIUS: I would say that Mrs. Hollenbeck is much more flighty in her imagination than Mr. Watts.

MR. WALTON: Would you say that of Mr. Trevethan.

MR. FABRICIUS: I wasn't discussing Mr. Trevethan.

MR. WALTON: I'll ask you then about Mr. Trevethan, do you think he's flighty?

MR. FABRICIUS: I think he's built up a story out of very little.

MR. WALTON: Do you believe sir, that teachers should not engage in political activities?

MR. FABRICIUS: I don't say that they shouldn't engage in political activities.

MR. WALTON: Do you feel that they shouldn't critize the Board which employs them?

MR. FABRICIUS: I feel that they should first come to a Board with things they grieve over, and I don't think it's a good thing for teachers to go out publicly and criticize their employing group without first making a very, very sincere effort to work out the problems.

MR. WALTON: You don't think a teacher has a right to do this even after the school year ends, do you?

MR. FABRICIUS: No, I don't.

MR. WALTON: You don't think an ex-teacher has this right, do you?

MR. FABRICIUS: I didn't say an ex-teacher.

MR. WALTON: Well, I'm talking about a teacher after his contract ends. After the 180 day period of his contract.

MR. FABRICIUS: I think that their actions are — that they're to be held accountable for their actions during the summer just as much as any other time.

MR. WALTON: Even after their teaching contract has expired?

MR. FABRICIUS: If they intend to teach the next year, yes.

MR. WALTON: If they don't intend to teach the next year, then it's permissible, is that it?

[383] MR. FABRICIUS: Then they have no liability as far as their present employing group.

MR. WALTON: Are you saying sir that these appellants were guilty of improper conduct during the summer of 1959, their very guilt depends wholly on whether or not they intended to teach the following year?

MR. FABRICIUS: Well, they are trying to claim continuing contract, are they not?

MR. WALTON: I'm asking you the question.

MR. FABRICIUS: Well, if they are claiming continuing contracts, then I certainly think they are responsible.

MR. WALTON: Would you try and answer this question. In the summer of 1959 if these appellants did not intend to come back to school the following school year, then I take it their actions were not reprehensible.

MR. BURR: I object to this question. It calls for a legal conclusion that this witness is not qualified to answer. That's a legal question — a technical question which I should like to have this Board resolve, therefore it's an improper question for the witness.

MR. WALTON: Mr. Casey, perhaps Mr. Burr may be requested to state just what the legal question is, I don't see it.

MR. BURR: The legal question is as to the liabilities after the alleged contracts came to an end, whether or not they are under the same obligation

as they were prior to the termination of the school year. I submit it has to do with the Teacher Tenure Law and the interpretation of the contracts under the law.

MR. WALTON: But, Mr. Casey, I'm not asking about the legal applications, I'm asking Mr. Fabricius whether or not he feels these parties would be reprehensible if they so acted without the intentions of coming back to teach.

MR. BURR: I'll object to the question it calls for a conclusion — it's beyond the scope which the witness has to answer.

MR. CASEY: Objection sustained. Proceed please.

MR. WALTON: Mr. Fabricius, apparently you did not feel that the Superintendent — apparently you do not feel that a Superintendent should not criticize ex-teachers publicly, do you?

MR. FABRICIUS: Criticize ex-teachers?

MR. WALTON: Publicly.

MR. FABRICIUS: No, I would — I probably have criticized ex-teacher, if you want to say ex-teacher publicly.

MR. WALTON: Do you feel that this is within your right as Superintendent?

MR. FABRICIUS: Not as a superintendent.

MR. WALTON: As a citizen?

[384] MR. FABRICIUS: All right, as a citizen.

MR. WALTON: As a matter of fact, you have recently, did you not, on Oct. 31st, about 8:45 PM, publicly uttered critical statements about these appellants — excuse me October 3rd, 1960.

MR. BURR: I'll object to anything that happened in 1960 — we're speaking of events that happened in 1959.

MR. WALTON: Mr. Casey, we're speaking here of what the basis for political rights of teachers, whether or not their conduct is subject to censure by a school board. Certainly we are entitled to know what the superintendent of public schools opinion is on this subject, he is the very one who recommends their non-retention to the Board, publicizing critical remarks. This is the issue.

MR. FABRICIUS: What was your question now?

MR. WALTON: Mr. Burr has made an objection.

MR. CASEY: Would you restate that question, Mr. Walton for the Board?

MR. WALTON: You have yourself, recently, on October 3, 1960, at 8:45 PM, have you not, broadcast public criticism of these appellants?

MR. BURR: I'll object to the question as being entirely outside the scope of affairs, it has not the faintest relevance as to whether or not these people should be retained or not retained. We are not trying Mr. Fabricius, that's obviously the intent and design of the appellants.

MR. WALTON: That's not true, Mr. Burr. Mr. Casey — whose standards are we to be guided by, Mr. Fabricius or

MR. BURR: If you'd take the time to read the notices of non-retention, Mr. Walton, you'd find that they are not signed by Mr. Fabricius, they are signed by the School Board.

MR. WALTON: I appreciate that, Mr. Burr.

MR. BURR: We're not trying this man, he didn't sign the charges against either or both of these people.

MR. WALTON: I refuse to engage in colloquies with this counsel.

MR. CASEY: Objection overruled, proceed.

MR. WALTON: Do you remember the question, Mr. Fabricius?

MR. FABRICIUS: It was something about public criticism of the appellants.

MR. WALTON: As recent as October 3, 1960, by broadcasting the same.

MR. FABRICIUS: Would you please tell me —

MR. WALTON: I would like to mark Appellants Exhibit — may I have a number please?

Let me hand it to Mr. Fabricius and identify it. Mr. [385] Fabricius I hand you Appellant's Exhibit 24 — would you like to skim over it briefly and tell the Board what it appears to be?

MR. FABRICIUS: It appears to be the speech I made on the radio.

MR. WALTON: Oh, I didn't ask you about that. Do you recognize it, Mr. Fabricius?

MR. FABRICIUS: Yes.

MR. WALTON: What is it?

MR. FABRICIUS: It's apparently the text of a radio talk given here — this fall just prior to the recall election.

MR. WALTON: By whom?

MR. FABRICIUS: By me.

MR. WALTON: I take it from having examined the name that you don't feel any restrictions are imposed upon the superintendent to discuss the qualifications of professional persons? Is that correct?

MR. FABRICIUS: I don't know that I discussed the qualifications.

MR. WALTON: Didn't you refer to the troublesome trio consisting of

MR. FABRICIUS: The appellants are not named in there, I believe.

MR. WALTON: They were alluded to, weren't they?

MR. FABRICIUS: You might say that.

MR. WALTON: Would you?

MR. FABRICIUS: Yes. That's right.

MR. WALTON: Very well. Then you did discuss their professional qualifications in that address, did you not?

MR. FABRICIUS: I don't know as I discussed their professional qualifications.

MR. WALTON: Did you not refer to them as unethical in that talk?

MR. FABRICIUS: I don't recall the exact words, no.

MR. WALTON: I will invite you Mr. Fabricius to examine it and then tell the Board at a later time this evening, whether or not there are any incorrections in that transcription, according to your opinion.

MR. FABRICIUS: As I don't happen to have a copy of the original, it would be impossible for me to say

whether there are any incorrections — any incorrect statements there or not.

MR. WALTON: You have just perused it, have you not?

MR. FABRICIUS: Perused is right.

[386] MR. WALTON: Did you see anything incorrect in that transcription?

MR. FABRICIUS: As I told you, I don't have the text of the original and it would be impossible for me to make a definite statement on it.

MR. WALTON: Mr. Fabricius, do you know how many of the teachers employed during the 1958-59 school year failed to return the following school year?

MR. FABRICIUS: Off-hand, no.

MR. WALTON: Would 14 be a correct number?

MR. FABRICIUS: I wouldn't know.

MR. WALTON: If I were to tell you that there were 14, sir, would you have any reason to dispute that?

MR. FABRICIUS: I would certainly want to check the figures and I would also want to determine for what reasons they didn't return.

MR. WALTON: In your opinion, Mr. Fabricius, if you had occasion only to recommend 3 non-retentions in Wrangell during the 15 year period, can you explain why the turnover in Seward has been so great in the last few years.

MR. FABRICIUS: Well, the turnover hasn't been so great by non-retentions by any means. We've had a number of teachers who got married and leave, and a number of them who went out to other positions because they wanted to take other positions. We have some gone out to school and I don't feel that our turnover in Seward has been any greater than any other school of comparable size.

MR. WALTON: I have no further questions.

MR. BURR: I have no further questions of this witness. I should like to stipulate, Mr. Walton, however, to avoid recalling Mr. Blue and Mr. Watts, that they made statements, public statements on the radio

at or about the same time Appellants Exhibit 24 was made.

MR. WALTON: Mr. Watts said that he did not.

MR. BURR: Neither Mr. Blue nor Mr. Watts made a statement?

MR. WALTON: Did Mr. Blue make a statement on the radio?

Mr. Blue answered that he did. On what date?

MR. BURR: You so stipulate?

MR. WATLON: As far as Mr. Blue's statement's concerned.

MR. BURR: Very well. I should like to call for one

MR. WALTON: Oh, excuse me, Mr. Burr, I should like to ask this witness very generally about this Exhibit 21. May I ask this witness? I [387] have here the Board's Exhibit 21, which appears to be letter dated November 9, 1960 and signed by numerous teachers?

MR. FABRICIUS: That's right.

MR. WALTON: Bearing also the signature of Mr. Robert Winters?

MR. FABRICIUS: Right.

MR. WALTON: Do you know sir, whether or not — how was this document come to be prepared and signed?

MR. FABRICIUS: The Seward District Teachers Association of their own volition after having listened to this — to these events that took place here — of their own volition, the group came up with that statement and willingly signed it, which can be attested by any number of our Seward District Teachers Association right now.

MR. WALTON: And did all the members of the SDTA sign it?

MR. FABRICIUS: I believe there are possibly two who did not. Whether they were even asked to sign it or not, I have no knowledge.

MR. WALTON: I see. When did you first learn that this statement had been signed?

MR. FABRICIUS: When they brought it to me after their meeting.

MR. WALTON: Which was when?

MR. FABRICIUS: Oh, I don't know, the other day. When was it — the teachers can you tell you that better than I can.

MR. WALTON: I want to know when you obtained it?

MR. FABRICIUS: It was here prior to the start of the continuation of this hearing.

MR. WALTON: Well, when did this hearing continue? It continued on Friday, didn't it?

MR. FABRICIUS: That's right.

MR. WALTON: Did you receive it, Friday?

MR. FABRICIUS: Either Thursday or Friday, I'm not sure which.

MR. WALTON: Before you saw it, did you know that such a letter was being circulated?

MR. FABRICIUS: Did I know that such a letter — I knew that they were contemplating something, but as to its contents I did not know.

MR. WALTON: May I inquire how you knew they were contemplating it?

MR. FABRICIUS: One of the teachers told me that they were, didn't like the way things were going here and they didn't like the attempted character assassination and they wanted to make a statement.

[388] MR. WALTON: Who told you that?

MR. FABRICIUS: I don't recall which one it was at present. It could possibly have been Mr. Winters, it could have been any one of several people.

MR. WALTON: Do you believe that the statements critical of you are an attempt to assassinate your character, Mr. Fabricius?

MR. FABRICIUS: I'm not expounding what they had in mind, that's for them to define not me.

MR. WALTON: No further questions.

MR. BURR: No further questions.

I should like to call Mr. Blue for several questions, please. I should like to remind you Mr. Blue that you're still under oath as a witness.

MR. BLUE: I understand that sir, thank you.

MR. BURR: Speaking of oaths, Mr. Blue, you took

an oath to tell the truth, the whole truth and nothing but the truth, so help you God, and in that regard I should like to ask you whether or not you do believe in God?

MR. BLUE: Yes sir, I do.

MR. BURR: Have you always had this

MR. BLUE: I beg your pardon, sir, I can — will you read the question, please?

MR. BURR: Well, I asked you if you believed in God?

MR. BLUE: Mr. —

MR. BURR: The same God that we made reference to when you took the oath to tell the truth.

MR. BLUE: Mr. Burr, this is a tremendous problem with me, really — it's a tremendous problem to me and really a difficult problem to answer and I have given a good deal of thought to it. I have done a good deal of discussing on it and I can't categorically say that God exists, nor can I deny the existence of God. It comes down simply to a matter that honestly I don't know and I wish I would. This is an extremely important problem and I would like to know, but I'm afraid that I do not have an actual conviction, I'm still wrestling this problem.

MR. BURR: As an educated man, now, Mr. Blue, you recognize the distinction between an atheist and an agnostic, don't you?

MR. BLUE: Yes, I do.

MR. BURR: Would you categorize yourself in the latter category?

MR. BLUE: Well, what I have said, I'm afraid, places me in that category, yes, sir.

[389] MR. BURR: Well, this letter from Mr. Miller makes the statement that you made reference to the Bible as this book of fables. Now, would that be your statement, or would it not?

MR. WALTON: Now if your please, Mr. Chairman, of all the exhibits that Mr. Burr has endeavored

to introduce into evidence in this case, I have objected to only two. One of which was the self-serving statements of the Board Members, stating that certain regulations had been passed by the Board, which is of crucial importance in this case. The Second exhibit which we have objected to has been this Miller letter. The reason we have objected to is because we, by Mr. Burr's own admission have no opportunity to cross-examine the apparent author of this letter. Mr. Burr has advised us so in the course of this hearing that the Miller's are out of the state, I believe you stated that, Mr. Burr, did you advise me that they were

MR. BURR: Address your remarks to the chair, Mr. Walton.

MR. WALTON: Mr. Chairman, will you please ask Mr. Burr to tell us where he told us these people were?

MR. BURR: The witness hasn't answered the question yet.

MR. WALTON: I'm asking the chair a question and I'd appreciate an opportunity for the chair to answer.

Mr. Chairman, I believe Mr. Burr advised the Board on an earlier occasion the apparent author of this document is not in the State of Alaska. Would you please inquire of Mr. Burr if he knows where he is?

MR. CASEY; Do you know, Mr. Burr?

MR. BURR: I don't even know Mr. Miller.

MR. WALTON: May I ask the chair to inquire if he has any information as to the whereabouts of the author of the letter?

MR. BURR: Mr. Chairman, this is getting quite far afield.

MR. WALTON: Then, will you stop questioning about a document which we cannot crossexamine on.

MR. BURR: This is the first time — I'm not using the document as such. I have no objections if the document is not introduced at all in the record. I should like to ask the witness the question of if he

has ever made reference to the Bible as a book of fables, without regard to the Millers. I can care less about the Millers.

MR. BLUE: No sir, I have not in those words.

MR. BURR: You deny ever making a statement to that effect, then?

MR. BLUE: No sir I don't, not to that general effect, but that's a distorted version.

MR. BURR: Well, give me your version, Mr. Blue?

[390] MR. WALTON: I'm going to object to any further questioning along this line unless the Board will stipulate that this was one of the reasons for non-retention of Mr. Blue. If the Board will stipulate to that, Mr. Burr may gladly inquire. If it wasn't one of the reasons for non-retention, then it's highly improper.

MR. BURR: I submit this has a relevance insofar as it bears on this man's reliability as a witness.

MR. WALTON: Mr. Burr as a lawyer knows very well that any such question is wholly and highly improper. But I'm first going to ask the Board to rule on my question, will the Board stipulate to me that this is one of the reasons he was non-retained. Mr. Burr advises that the Board will not so stipulate, is that it?

MR. BURR: Mr. Burr hasn't made any advice for the record, Mr. Walton and if you're going to paraphrase me, I wish you would quote me accurately.

MR. WALTON: Well, you speak loudly enough to be picked up on the tape, I can certainly hear it.

MR. BURR: You have the most sensitive hearing organs however, you can hear when it's convenient.

MR. WALTON: All right, play back the tape, please?

MR. BURR: This is a needless waste of time. If you have an objection, make it.

MR. WALTON: Well, I've made it. I'd like a ruling on it now. Simply this I asked the Board is this one of the reasons for the non-retention of Mr. Blue.

His opinions as to the existence of God? May I please have an answer to that simple question?

MR. CASEY: Proceed with the hearing, Mr. Walton.

MR. WALTON: Mr. Chairman, do I understand that the Board will not answer my question? I caution the Board to consider the question carefully, this is extremely important.

MR. BURR: Now, that you're admonishing the Board of their duties, Mr. Walton, do you want to admonish counsel as to his duties in interrograting the witness? Apparently you not only prescribe the rules, but you make them.

MR. WALTON: Mr. Chairman, will you please kindly advise counsel of the Board to refrain from engaging in arguments with me. I've asked the question — simply, it is this — was this one of the reasons for non-retention of Mr. Blue. Mr. Blue has the right to know why he was non-retained.

MR. BURR: Mr. Blue has entered no objections as yet.

MR. WALTON: I am his attorney, I enter it for him.

MR. BURR: Well, I am representing the Board and I submit that the objection has no merit.

[391] MR. WALTON: Thank you, Mr. Burr.

MR. CASEY: Mr. Walton, would you like to proceed with this hearing.

MR. WALTON: Mr. Chairman, may I please ask does the Board decline to answer the question? Yes or no.

MR. CASEY: You have heard we have advice that we don't have to answer this question, therefore, we don't intend to answer it.

Mr. Walton, as you know, you're had a bill of particulars and it's very clear and if you have a specific question to that bill of particulars, go ahead and ask it.

MR. WALTON: My specific question, Mr. Chairman, is this, is Mr. Blue's religious beliefs and convictions comprised within the allegations contained in the bill of particulars?

MR. CASEY: Mr. Walton, Mr. Blue's character as a witness is in issue.

MR. WALTON: I take it then this is the reason for the questioning, Mr. Chairman, and not because this was the possible grounds for non-retention, is that correct?

MR. BURR: For the Board, Mr. Walton, I'll make this statement, if Mr. Casey doesn't subscribe to it, he can stop me. This interrogation has not to do with the grounds that was stated for non-retention in the bill of particulars, it has only to do with his capacity as a witness and whether or not the oath that he took has any significance insofar as it might relate to the reliability of his testimony.

MR. WALTON: I see. Now, Mr. Chairman, I would like to ask one lawyer to a fellow lawyer, one question and this is a very technical and difficult question, I'm sure Mr. Burr has studied it. Mr. Burr, do you represent to this Board that this is a legitimate line of questioning as ruled upon by courts in the past?

MR. BURR: Mr. Walton, as I remember in the first hearing of this case, I didn't preside in the appellant form, but as I remember saying the objections made and one of the objections made by yourself was the fact that these witnesses were not placed under oath at the first hearing.

MR. WALTON: Exactly.

MR. BURR: Well, I should think you would be the last one to challenge this man taking an oath and having me interrogate him as to whether or not that oath means anything — the snap of a finger. If it doesn't, I see no reason

MR. WALTON: Why don't you just ask him that question?

MR. BURR: I'm trying to.

MR. WALTON: But if you're going to go into the question of this man's religious belief which is another question

[392] MR. BURR: I can still ask about his religious beliefs.

MR. WALTON: Very well.

MR. BURR: I'm concerned about whether or not this oath means anything to him because it may have some bearing upon whether or not the Board wants to believe his testimony.

MR. WALTON: Very well, then ask the question, I'll not object. Ask him if his oath does mean anything to him.

MR. BURR: Does this oath mean anything to you, Mr. Blue?

MR. BLUE: Which oath are you referring to sir, the oath

MR. BURR: The oath that was administered to you by your counsel when you testified?

MR. BLUE: Yes sir, it means a very greal deal to me.

MR. BURR: What does it mean to you?

MR. BLUE: It means exactly this, that I am honor bound to tell the truth on the standard generally accepted by people as the most important standard of all to swear by.

MR. BURR: What people — what is important to swear by? What are you talking about?

MR. BLUE: People, I suppose when they swear, swear by that they hold to be honorable and fine and good. I believe when people believe in God that then this is their standard and if they make a solemn or binding statement, they usually make an oath or swearing made, God's thunderbolt strike me dead unless I am telling the truth or so forth, is merely a way to me affirming that their intent to tell the truth is direct and honorable. I intend to tell the truth and I shall do so to the best of my ability and if God will help us I certainly will be most happy to accept that help.

MR. BURR: You're not disdaining his help, but you're not going to solicit it, is that it?

MR. BLUE: I certainly would solicit it if I felt that would do me good.

MR. BURR: Have you made any attempt to engender your students to this philosophy, Mr. Blue?

MR. WALTON: I object to the line of questioning. Mr. Burr was supposed to be interested in the question of what this oath means to this witness.

MR. BURR: All right. I'll go back to the question in issue here. Sir, when you take an oath to tell the truth, the whole truth and nothing but the truth, so help you God, we can omit the last part of it and you would feel just as bound to tell the truth as if you understand it without reference to God?

[393] MR. WALTON: I'm going to object to this line of questioning ***

* * *

[396] MR. BURR: Next witness for the Board will be Mr. Naegel. Will you please come forward. Will you raise your right hand, please. Do you swear the testimony you are about to give will be the truth, the whole truth and nothing but the truth, so help you God?

MR. NAEGEL: I do.

MR. BURR: Will you state your full name?

MR. NAEGEL: K. G. Naegel.

MR. BURR: And your occupation, sir?

MR. NAEGEL: Teacher.

MR. BURR: You teaching presently in the School System at Seward?

MR. NAEGEL: Yes, I do.

MR. BURR: Do you know Mr. Watts and Mr. Blue, the respondents in this case?

MR. NAEGEL: Yes, I do.

MR. BURR: If you know them to identify them, will you point towards them, please?

MR. NAEGEL: Mr. Watts and Mr. Blue. (pointing)

[397] MR. BURR: Do you recall any statements made by Mr. Watts relative to the tenure of Mr. Fabricius as a teacher and if so, tell me, when and where?

MR. NAEGEL: Yes I recall the statement about it the second or third day that I arrived in Seward.

MR. BURR: When would that have been, sir?

MR. NAEGEL: The first or second day of school.

MR. BURR: Of what year?

MR. NAEGEL: 1960.

MR. BURR: Can you tell me what you overheard Mr. Watts say?

MR. NAEGEL: I did not overhear Mr. Watts say it, he said it directly to me.

MR. BURR: Will you state that please for the record?

MR. NAEGEL: The full conversation?

MR. BURR: Yes.

MR. NAEGEL: The full conversation — I would not remember the full conversation because it was a process of an hour or so. It was in regards to the Superintendent and the fact that he would probably not be here more than a month or so. And over the period of an hour or so, he made the statement, that if it was the last thing they would do, they would get Mr. the superintendent.

MR. BURR: And by they — do you have any information as to who they were?

MR. NAEGEL: Nothing more than the fact that we were discussing the fact of the group that were involved.

MR. BURR: Do you have any other information about Mr. Blue?

MR. NAEGEL: None at all about Mr. Blue.

MR. BURR: Mr. Watts?

MR. NAEGEL: The only other thing that Mr. Watts ever said that I paid any attention to was the fact that at a recess period he made the statement that he felt that the administration, both Mr. Frampton nor Mr. Fabricius was either capable or competent of making a decision on the right to hire and fire the teachers and he felt that the community, that the public should make that decision.

MR. BURR: Thank you, I have no other questions.

[402] MR. BURR: The next witness will be Mrs. Vaughn. Please come forward. Raise your right hand, ma'am. Do you swear the testimony you are to give will be the whole truth, nothing but the truth, so help you God? Have a seat, please. Will you state your full name?

MRS. VAUGHN: Ella B. Vaughn.

MR. BURR: Are you a teacher?

MRS. VAUGHN: Yes.

MR. BURR: How long have you been a teacher, Mrs. Vaughn?

MRS. VAUGHN: Twenty-two years.

MR. BURR: And how long have you been in the Seward School System?

MRS. VAUGHN: This is my fourth year.

MR. BURR: How long have you known Mr. Fabricius?

MRS. VAUGHN: Since he came here.

MR. BURR: Mrs. Vaughn, were you present at a faculty meeting in the Fall of 1958. Do you have any recollection of so being?

MRS. VAUGHN: Yes.

MR. BURR: Do you recall whether Mr. Fabricius was there?

MRS. VAUGHN: Yes, at one of the meetings.

MR. BURR: Do you recall whether either Mr. Blue or Mr. Watts were present?

MRS. VAUGHN; I don't know just which meeting you referred to. There's one we've been speaking of was over at the Grade School and there was one over here.

MR. BURR: Do you recall — would you tell me what you recall of what was said of the topic of conversation of the one over here.

MRS. VAUGHN: I can't remember just what meeting it is and just what was said.

MR. BURR: You have made some of the statements attributed to Mr. Fabricius, have you not, Mrs. Vaughn, during this proceeding?

MRS. VAUGHN: Part of them. I haven't been here all the time.

MR. BURR: Would you tell me whether or not you have any recollection of the statements that have been attributed to Mr. Fabricius at this meeting?

MRS. VAUGHN: No, I never heard them.

MR. BURR: At either meeting or both of them?

MRS. VAUGHN: I didn't hear them — if you mean any of the derogatory statements

MR. BURR: Yes.

[403] MRS. VAUGHN: I didn't hear those.

MR. BURR: Did you hear any statements made by Mr. Fabricius to the effect that no teachers could talk to the Board?

MRS. VAUGHN: No.

MR. BURR: Did you hear any statement by Mr. Fabricius that was insulting in your opinion or in any way shocking to you?

MRS. VAUGHN: No.

MR. BURR: Were you present at the Board Meeting in the Fall of 1958 or 1959 at which time Mr. Fabricius read a letter from the Board?

MRS. VAUGHN: I was.

MR. BURR: Did you ever hear him make any statements that the SDTA was his enemy and was working against him?

MRS. VAUGHN: No.

MR. BURR: Did you ever hear Mr. Fabricius make any statement concerning that the teachers couldn't stand in the hall and talk together?

MRS. VAUGHN: No.

MR. BURR: Do you know of any bulletin that was ever sent out to that effect to the teachers?

MRS. VAUGHN: Not definitely, to that effect.

MR. BURR: Well, do you know of any similar to that? From Mr. Fabricius?

MRS. VAUGHN: Just the regular rules that we have in every school that teachers shouldn't congregate and talk while their room is unattended.

MR. BURR: Have you known of this rule in other school systems, Mrs. Vaughn?

MRS. VAUGHN: Certainly.

MR. BURR: So there is nothing unusual about that?

MRS. VAUGHN: No.

MR. BURR: Did Mr. Fabricius ever say anything about buzz sessions that has been referred to?

MRS. VAUGHN: No.

MR. BURR: Did he ever say anything to your recollection about remembering his enemies?

MRS. VAUGHN: No.

MR. BURR: Have you ever heard Mr. Fabricius say anything in your opinion that was shocking or insulting?

MRS. VAUGHN: No.

[404] MR. BURR: You've known Mr. Fabricius now for approximately 2 years?

MRS. VAUGHN: Since I was teaching in the school.

MR. BURR: You were teaching here at the time he arrived?

MRS. VAUGHN: I taught here one year with Mr. Carlson.

MR. BURR: So you have been here since he came. He came in the fall of 1958, so this would be going on the third year.

MRS. VAUGH: I'm on my fourth year.

MR. BURR: During this period of time, Mrs. Vaughn, would you say you've had an opportunity in your relationship with him as teacher-superintendent, to form an opinion as to his character for truth-telling?

MRS. VAUGHN: Yes, my relationship has been just as a teacher in the Grade School. I've had very few talks with him.

MR. BURR: But you have been in a position to form an opinion, have you not, in your dealings with him.

Tape ran out - replaced.

MR. BURR: The last question as I remember, Mrs. Vaughn, was to the effect of whether or not you have had an opportunity of forming an opinion of Mr. Fabricius, his character in particular — his character of truth-telling?

MRS. VAUGHN: I've had no opportunity, no, as far as that goes.

MR. BURR: Have you ever caught him in a lie?

MRS. VAUGHN: No, as far as I am concerned, he always tells the truth.

MR. BURR: Do you have any reason to believe that he would take an oath and tell a falsehood?

* * *

[1] The meeting was called to order by Cecil Casey, President of the Seward School Board. The following Board members answered to roll call: Mrs. Whitmore, Mr. McRae, Mr. Jeffrey and Mr. Casey.

* * *

[7] MR. BONEY: That's all and thank you. The Board would like to call Ben F. Frampton as its next witness.

You will be seated Mr. Frampton. Will you state your full name?

MR. FRAMPTON: Ben F. Frampton

MR. BONEY: Are you a resident of Seward, Alaska?

MR. FRAMPTON: Yes, I am.

MR. BONEY: Are you a teacher in the Seward Public Schools?

MR. FRAMPTON: Yes, I'm Principal in the Grade School.

[8] MR. BONEY: On April 28, 1959, did you have an occasion to talk to Mr. James Watts?

MR. FRAMPTON: Yes.

MR. BONEY: Would you state to the Board what was the nature of that conversation.

MR. FRAMPTON: Mr. Watts came by my office and told me that he would like to see me in my wife's room. This was rather an unusual thing, but I went down with him to that room. There he told me that he had been a friend of mine of long standing and he had been selected as a person to come to me to see if I wanted to join a group who were interested in ousting the Superintendent. He told me at that time too that I must realize that the other issues that were up before the Board were not the real issues. That getting rid of the Superintendent was the real issue. He asked me and my wife if we cared to join them. I told him at that time I could not be a party to any of that sort of thing. That I was wholeheartedly behind the Superintendent and the Board, and I couldn't go along with them. I at that time asked him who the other persons might be. "Under the circumstances I would rather

not say", he said. That substantially is the essence of our conversation.

MR. BONEY: Is your wife, Mrs. Frampton, a teacher in the Seward Public School?

MR. FRAMPTON: Yes, she is.

* * *

[22] MR. BONEY: I'd like to call Mrs. Frampton, as the next witness.

Will you give your name, please ma'am.

MRS. FRAMPTON: Margaret M. Frampton.

MR. BONEY: And what is your occupation?

MRS. FRAMPTON: I am a teacher of the first grade here in the school.

MR. BONEY: How long have you been a teacher, Mrs. Frampton?

MRS. FRAMPTON: Ten years.

[23] MR. BONEY: And how long have you been a teacher in the Seward Public Schools?

MRS. FRAMPTON: Seven years.

MR. BONEY: And where did you teach before you taught in the Seward Public Schools?

MRS. FRAMPTON: I taught at the Bayview School. I also taught at South Naknek.

MR. BONEY: On or about the 28th day of April 1959, did you have occasion to have a conversation with Mr. James Watts?

MRS. FRAMPTON: Yes, I did.

MR. BONEY: And will you relate to the Board what was the nature of your conversation with Mr. Watts.

MRS. FRAMPTON: I can practically ditto what Mr. Frampton said. He asked us to join in this group to get rid of the Superintendent. He said that the contracts that were at stake that were coming up before the Board were not the main issue. He also stated that he didn't want Mr. Frampton to be hurt. He also said that he realized that I was only concerned as far as my husband was concerned. And which I took as an insult. I think I am capable of say-

ing what's right and wrong. Now, I am no expert, but as far as I'm concerned I know what's right and wrong.

* * *

[26] MR. WALTON: I would like to ask you just one question. Prior to your conversation with Mr. Watts, did you hold the profession of teaching in high esteem?

MRS. FRAMPTON: Well, I certainly did.

MR. WALTON: And how did you feel after your conversation? Did you still hold the profession of teaching in high esteem?

MRS. FRAMPTON: I do, but I think there are people in all professions who don't stand up to it.

MR. WALTON: In other words, your estimate of the profession of teaching was not diminished by virtue of your conversation with Mr. Watts?

MRS. FRAMPTON: I don't believe one man can spoil a profession. No.

MR. WALTON: I am inclined to agree with you. The question to be specific again is, was your respect for the teaching profession diminished? The profession as a whole, diminished as a result of that conversation?

MRS. FRAMPTON: All right, if we're going to take it to that, yes. It was diminished to a certain extent.

MR. WALTON: You mean you had less respect for the profession of teaching after the conversation that you had before? I just ask for a straight-forward answer.

MRS. FRAMPTON: You sure did. Would you consider it a straightforward question?

MR. WALTON: I certainly do. And I repeat it. Was your respect for the teaching profession less after your conversation?

[27] MRS. FRAMPTON: I think I choose not to answer that question because there is no way to answer it that doesn't put me in the soup.

MR. WALTON: That's your privilege. No further question.

* * *

[35] MR. FABRICIOUS: Well, I definitely know who was up in the City offices using their mailing list and their equipment to mail them, yes.

MR. WALTON: You say you know who was using mailing equipment to mail them?

MR. FABRICIOUS: That was my statement. And I believe if you wanted to search the community you would find a good many people who were personally handed this very document.

MR. WALTON: Now, Mr. Fabricious, were you present when that mailing equipment was used?

MR. FABRICIOUS: I was, and I was also informed by the City Manager at that time.

MR. WALTON: I am not interested in hearsay statement, I want to know just what you saw. You were there, were you not?

[36] MR. FABRICIOUS: I was there. That's right.

MR. WALTON: And where was that incident?

MR. FABRICIOUS: It took place in the City Hall.

MR. WALTON: In one particular room in the City Hall?

MR. FABRICIOUS: Well, there was a little alcove off there. Do you want information, or do you just want me to answer questions?

MR. WALTON: Just answer questions.

MR. FABRICIOUS: I thought so.

MR. WALTON: Now, on how many occasions was the mailing equipment used in your presence?

MR. FABRICIOUS: Once.

MR. WALTON: Do you know when?

MR. FABRICIOUS: What do you mean by when?

MR. WALTON: The date.

MR. FABRICIOUS: At this time I wouldn't recall the date. No.

MR. WALTON: Do you know the approximate date?

MR. FABRICIOUS: It was along the spring sometime.

MR. WALTON: The spring of 1959?

MR. FABRICIOUS: I believe so. If you want to authenticate that you can easily do so without asking my testimony for it.

MR. WALTON: And who was using the mailing equipment when you were present?

MR. FABRICIOUS: At the time I happened to be in there Mr. Watts and Mr. Swick were using it.

MR. WALTON: Was Mr. Blue using it in your presence?

MR. FABRICIOUS: No at that time, he wasn't no.

MR. WALTON: How long were you in the presence of Mr. Watts?

MR. FABRICIOUS: Not for any length of time.

MR. WALTON: How long is that?

MR. FABRICIOUS: Oh, a few minutes.

MR. WALTON: And can you describe exactly what you saw Mr. Watts do?

[37] MR. FABRICIOUS: I was informed at the time. I know what you want. You want the questions answered to suit your testimony. I'm here to give information.

MR. WALTON: You choose the answer and I'll choose the question. What did you see Mr. Watts do?

MR. FABRICIOUS: I saw them working with this mailing addressograph.

MR. WALTON: And can you describe what you saw Mr. Watts do with the addressograph machine?

MR. FABRICIOUS: Not especially, no, other than - I didn't give it that much consideration.

MR. WALTON: You mean you didn't observe?

MR. FABRICIOUS: I saw them over there working with the machine.

MR. WALTON: Did you see Mr. Watts do anything other than the fact that he was working with an addressograph machine?

MR. FABRICIOUS: That was enough, and I was informed by the City – I know you're not interested in that.

MR. WALTON: That's hearsay and we have no opportunity to cross-examine.

MR. FABRICIOUS: All right, go ahead.

MR. WALTON: You may bring it out, if you wish, on rebuttal, but I will not bring out hearsay statements. Do you know.

MR. BONEY: Mr. Chairman, the witness has a right to finish his answer, and I think he should be able to complete it.

MR. WALTON: But it must be responsive to my question. I ask him what he saw and he answered "I was informed". Now the next question is this. Did you see the papers that went into the addressograph machine?

MR. FABRICIOUS: No.

MR. WALTON: Thank you. Now, have you any idea what Mr. Watts had in mind - what his intention was at the time he was working with that addressograph machine?

MR. FABRICIOUS: I'm not a mind reader, no.

MR. WALTON: Did he express to you what he intended to do?

MR. FABRICIOUS: I never talked to Mr. Watts.

MR. WALTON: Then you would have no reason to say that at that particular moment he was intent on injuring the professional standing of the superintendent of the Seward Public Schools.

[38] MR. FABRICIOUS: Put it on that basis, no.

MR. WALTON: Thank you. Here is Exhibit 7. On that particular occasion, when you saw Mr. Watts using the addressograph machine, did you see copies in the addressograph machine resembling Exhibit 7?

MR. FABRICIOUS: I can't say that I did, no.

MR. WALTON: Did you see copies of Exhibit 7 anywhere near the addressograph machine at that time?

MR. FABRICIOUS: I can't say that I did.

MR. WALTON: Did you see them anywhere in the alcove at that time?

MR. FABRICIOUS: I saw a pile of them there, yes. I didn't go close enough to examine them.

MR. WALTON: How far away were you?

MR. FABRICIOUS: Oh, 10 or 15 feet.

MR. WALTON: 15 feet, and from 10 or 15 feet, you are prepared to state -

MR. FABRICIOUS: No, I'm not prepared to state that it was exactly that.

MR. WALTON: Then it might have been something else?

MR. FABRICIOUS: Oh sure, it might have been the Lord's Prayer.

MR. WALTON: That's all, Mr. Fabricious.

MR. BONEY: At this time we will have to call a member of the Board. Three members of the Board actually received copies of this Exhibit No. 7, and we will call one unless you will stipulate that Mr. Watts delivered a copy of Exhibit 7 to three members of the Board. Will you stipulate, counsel?

MR. LEITENBURG: Just a moment. I think we ought to ask Mr. Watts if he can stipulate to that. I'll ask him in secret. We would like to inquire to which Board members you would like to stipulate that Mr. Watts delivered a copy of this Exhibit 7.

MR. BONEY: Mr. Jeffrey, Mr. Casey, Mr. McRae and Mrs. Whitmore.

MR. LEITENBURG: We shall stipulate.

MR. BONEY: The Board will now call Mr. Watts as its next witness.

MR. WALTON: Before you proceed, would you wait just a moment? Now, we object to the calling of one of the accused. For the purpose of this hearing, as provided for by Statute is to permit the persons charged with the opportunity of facing those who have charged them. Mr. Watts is not borne witness against himself nor Mr. Blue; and he is not about to today. [39] And it would be a real transgression of his rights if this Board were to permit him to now be used by the board against himself. It's contrary to the provision of the Statutes.

MR. BURR: What provisions are you talking about, Mr. Walton?

MR. WALTON: The second sentence under the section commencing under the word "Provision for Hearing", reading as follows: "The teacher, or administrator, shall have the right to demand in the above notification, that the hearing being either public or private, he or she represented by counsel" - and here follows the key word - "and he or she have the right and privilege of facing at such hearing any person who has made allegations detrimental to his or her character," - facing any person who has made allegations de-

trimental to his or her character, or which are used as a basis for any decision of Court.

MR. BONEY: There is no statutory provision. If he wants to invoke the Fifth Amendment for his own protection, he should so request.

MR. WALTON: We thank you for offering to us a constitutional right which Mr. Watts enjoyed before he came here tonight, but we're not relying on that.

MR. LEITENBURG: We are expressly not invoking this Amendment.

MR. BURR: On what basis is he denying his being called to the witness stand?

MR. WALTON: The right that the purpose of this hearing is to afford Mr. Watts the opportunity to confront those who have made charges against him. That is the hearing that the statute provides for. It doesn't provide for Mr. Watts to be called here to testify against himself.

MR. BURR: It doesn't make any prohibition against it.

MR. WALTON: It expressly provides for what the purpose of the hearing is. By implication it excludes other matters.

MR. BONEY: Mr. Chairman, Mr. Watts and Mr. Blue are here to - have requested a hearing and in part this hearing is to show why they should not be retained, and on the other hand it is to show why they should be retained. It seems very peculiar to me that we cannot have them here to testify about certain of the facts that are within their own knowledge.

MR. WALTON: I would like a ruling.

MR. BURR: On what grounds.

MR. WALTON: On the statutory grounds.

[40] MR. WALTON: I appreciate the fact that uniformly our objections have been overruled and that none of them have been sustained. But I ask the Board to carefully consider this objection.

MR. CASEY: Overruled.

MR. BONEY: Your name is James Watts?

MR. WATTS: That is correct.

MR. BONEY: And you're one of the respondents here, Mr. Watts?

MR. WATTS: Yes.

MR. BONEY: Mr. Watts, concerning Board's Exhibit 2, I ask you to examine that document and tell me what it is. If you can.

MR. WATTS: It is a petition to the Seward Common Council to order an election for successors to the School Board.

MR. BONEY: Did you circulate that petition?

MR. WATTS: My signature is on the bottom. I believe I did.

MR. BONEY: And do you recognize that as a reproduction of your signature on the bottom? On the bottom of this page?

MR. WATTS: I believe it is.

MR. BONEY: It looks like your signature?

MR. WATTS: Yes.

MR. BONEY: Mr. Watts, I show you Board's Exhibit 7 for identification, which has been admitted here. Board's Exhibit 7, and ask you, did you have anything to do with the distribution of that Exhibit?

MR. WALTON: We object. The question is far too vague, and we ask for a more specific question.

MR. BONEY: I'll withdraw the question and ask another question. Have you even seen a document similar to this before?

MR. WATTS: I have.

MR. BONEY: And did you see this in May of 1959?

MR. WATTS: I did.

MR. BONEY: And did you assist in the circulating of this document? In the community of Seward, Alaska?

[41] MR. WALTON: I object for the previous reason given. Furthermore, it's a leading question.

MR. BURR: It's an adverse witness.

MR. WALTON: Well, you haven't called him an adverse witness.

MR. BURR: He's presumptively an adverse witness.

MR. LEITENBURG: Since when?

MR. WALTON: Why? Leading - too vague. To assist in the circulation. We submit that this so ambiguous that one might answer yes or no without knowing what one was saying. We invite the counsel to be a little more specific. Perhaps Mr. Watts is a mail carrier and he carried one without ever knowing about it.

MR. BONEY: I'll withdraw my question if it will make it easier for Mr. Watts. So there won't be any need for the objection. Mr. Watts, did you ever hand out any of these documents to any of the people in the community of Seward? Yes or no?

MR. WATTS: Yes.

MR. BONEY: And did you ever hand out any copies of this document to members of the School Board? Yes or no.

MR. WATTS: Yes.

MR. BONEY: Did you ever hand out copies of this document to other members of the community?

MR. WATTS: Yes.

MR. BONEY: Did you ever hand out copies of this document to other teachers?

MR. WATTS: I cannot recall.

MR. BONEY: Did you arrange for the printing of this document?

MR. WALTON: Objection. Assuming a fact not in evidence.

MR. BONEY: I'll withdraw the question. Did you make any arrangements whatsoever for the reproduction of this document?

MR. WATTS: I did not.

MR. BONEY: Do you know whether or not Mr. Blue made arrangements for the reproduction of this document?

MR. WATTS: I don't know whether I have to answer that question or not.

MR. LEITENBURG: No, you don't.

[42] MR. BONEY: Of your own personal knowledge, we ask you to answer the question.

MR. WATTS: Will you restate the question again, please.

MR. BONEY: Do you know whether or not Mr. Blue made any arrangements for the reproduction of that document? Or a similiar document? I will withdraw the question. Do you know whether or not Mr. Blue had anything to do with the printing of a document containing the language contained in that document?

MR. WATTS: You're asking me, do I know.

MR. BONEY: Do you know?

MR. WATTS: I do not.

MR. BONEY: Did Mr. Blue tell you that he did?

MR. WALTON: Objection. Hearsay.

MR. BONEY: That's not hearsay. Mr. Blue is here -

MR. WALTON: Then call Mr. Blue. The other was hearsay.

MR. BONEY: I will withdraw it. Mr. Watts, did you have anything to do with the preparation of the contents of this document insofar as content is concerned?

MR. WATTS: I did not.

MR. BONEY: Do you know who had anything to do with the composition of this document?

MR. WATTS: You mean first-hand knowledge?

MR. BONEY: Yes.

MR. WATTS: I do not.

MR. BONEY: You circulated the document but you - with an unknown author.

MR. WALTON: Mr. Boney is not testifying.

MR. BONEY: I'm not testifying, I'm asking him a question.

MR. WALTON: He's asking a leading question. It's a quesion to which he has not yet testified.

MR. BONEY: I'll withdraw the question. Do you know - is the author of this document unknown to you?

MR. LEITENBURG: A while ago that question was irrelevant. I think it still is.

MR. WALTON: We'll stand on your objection to our questions on the same point. It's irrelevant. And, Mr. Chairman, we ask that you rule as you did before.

[43] MR. BONEY: I'll withdraw the question. May I have the document back, Mr. Watts? Did you ever work in the City Hall on an addressograph machine addressing envelopes so that Exhibit 7, or documents containing the same contents as Exhibit 7 could be mailed to members of the public in Seward?

MR. WATTS: I did not.

MR. BONEY: But you did deliver them to the people in the community?

MR. WATTS: Yes.

MR. BONEY: Mr. Watts, I show you Board's Exhibit 6 and ask you if you recognize it.

MR. WATTS: I do.

MR. BONEY: Is that a copy of your contract?

MR. WATTS: The present contract, yes.

MR. BONEY: Are you familiar with Paragraph 4 in your contract?

MR. WATTS: I am aware of it.

MR. BONEY: Mr. Watts, did you ever attend a meeting of the Longshoremen's Local here in Seward with Mr. Blue, and assist in circulating these petitions at the Longshoremen's Local calling for the recall of the Seward School Board?

MR. WATTS: I did not.

MR. BONEY: You did not.

MR. WATTS: That is correct.

MR. BONEY: You never have attended a Union meeting of the Longshoremen's Local here in Seward?

MR. WALTON: That isn't what he testified.

MR. BONEY: I'll withdraw the question. Have you ever taken a petition such as Exhibits 2 and 1, such as, for the same recall election, to any Union Hall in the City of Seward?

MR. WATTS: I have not.

MR. BONEY: You heard the testimony of the Union member here tonight, stating that you were present when Mr. Blue made certain statements before a group of Union members, was his testimony true or false?

MR. WALTON: We will ask that you stress by the particular testimony which you ask Mr. Watts to verify. There were many things said. Which items do you wish Mr. Watts to verify?

[44] MR. BONEY: Do you remember the testimony of the young man that was here tonight and testified that he heard Mr. Blue say in substance that we haven't been able to get the Superintendent so now we're going to get the Board? Did you hear that testimony?

MR. WATTS: I believe I did.

MR. BONEY: Were you present when statements of a similar tenor were made by Mr. Blue?

MR. WATTS: I cannot verify the authenticity of the statement referred to.

MR. BONEY: You cannot remember attending such a meeting. Is that correct?

MR. WATTS: I definitely remember the meeting.

MR. BONEY: You definitely remember the meeting.

MR. WATTS: I do.

MR. BONEY: And you were present at that meeting?

MR. WATTS: I was present at the meeting referred to.

MR. BONEY: What was the purpose of your presence at the meeting? Will you please answer the question, Mr. Watts? What was the purpose of your attending the meeting? Please answer the question.

MR. LEITENBURG: I think it's proper to ask what he did there. I don't think it's proper to ask his purpose. His purpose may have been entirely thwarted by something else. But it's entirely proper to ask him what he did there. His purpose would only be material if it could be adduced from what he did there. And if that purpose and those acts are then relevant. Let's get some acts before we look into motives.

MR. BONEY: I'll withdraw the question. Mr. Watts, were you a member of the Union whose meeting you attended?

MR. WATTS: I was not.

MR. BONEY: And what did you do at that meeting?

MR. WATTS: I walked in and I sat and I walked out.

MR. BONEY: Do you know what Mr. Blue did? At that meeting?

MR. WATTS: I do.

MR. BONEY: Did he make a speech?

MR. WATTS: He made a speech.

[45] MR. BONEY: Did he make a speech concerning the Seward School Board?

MR. WALTON: We object again on hearsay grounds. We again object that this is repetitive. You already have your own witness that so testified. This only repeats what your own witness said; even if he answers as you would like him to answer, he would only repeat what your own witness has previously testified.

MR. BONEY: I respectfully request that this is an immediate question at issue and the statements made by Mr. Blue are at issue, and therefore it's not hearsay. I realize this is not a Court and I wish counsel would also, but even in a Court of Law this kind of testimony would be admissiable. As counsel well knows.

MR. LEITENBURG: We would argue as to its admissability. Let the Chairman rule.

MR. CASEY: I will overrule the objection.

MR. BONEY: Mr. Watts, will you answer the question, please?

MR. WATTS: Please state your question.

MR. BONEY: Did Mr. Blue's speech have anything to do with the Seward School Board? Yes or no.

MR. WATTS: There was some reference to it, yes.

MR. BONEY: And what was the reference to the Seward Board? If you remember.

MR. WATTS: Like the previous witness, I cannot remember all of the things stated.

MR. BONEY: Will you state what you remember?

MR. WATTS: Mostly it was a statement of grievances and a desire for support in trying to solve our school dilemma, which we felt was severe at the time.

MR. BONEY: What was the school dilemma?

MR. LEITENBURG: Wait a minute. This question is, what was the school dilemma? I don't think that's germane.

MR. WALTON: I might support that, Mr. Chairman, by the following: Mr. Blue is accused of having made false and misleading statements at that meeting. It isn't important what the dilemma was. What's important is, what did he say, and was it false. Now, if counsel wants to go into that sort of thing, we're perfectly willing to. We aren't here tonight to discuss what the dilemma in the school of the City Seward is.

MR. BONEY: I will withdraw the question if Mr. Watts doesn't care to answer it.

[46] MR. WALTON: He isn't stating he doesn't want to answer it. We have objected to it.

MR. BONEY: I will withdraw the question, and there is no need for harangue.

MR. LEITENBURG: I object to that. We are not haranguing.

MR. BONEY: No further questions.

We would like to call Mr. Blue to the witness stand.

MR. BONEY: Mr. Blue, are one of the respondents in this matter, are you not?

MR. BLUE: That is correct.

MR. BONEY: On Board's Exhibit No. 7, I ask you to examine it, sir, and state whether or not you had anything to do with handing this document out to various members of the Seward community.

MR. BLUE: What do you mean by having to do with?

MR. BONEY: Did you ever hand this document to any other person?

MR. BLUE: Yes.

MR. BONEY: In the Seward community?

MR. BLUE: Yes.

MR. BONEY: To members of the general public?

MR. BLUE: I am not sure.

MR. BONEY: Members of the School Board?

MR. BLUE: No. Let me qualify that statement. I did not personally hand any of these to any members of the School Board.

MR. BONEY: Did you ever cause these to be handed to any member of the general public, by having someone else do it?

MR. BLUE: Not handing, no.

MR. BONEY: Or mailing?

MR. BLUE: Yes.

MR. BONEY: You did?

MR. BLUE: Yes.

MR. BONEY: And did you arrange for the mailing of these documents to members of the public here in Seward?

[47] MR. BLUE: To the extent that I was part of the American Federation of Teachers Local that created this document.

MR. BONEY: Do you know approximately how many of these were mailed?

MR. BLUE: I don't recall.

MR. BONEY: But a considerable number were mailed to the general public?

MR. BLUE: Yes.

MR. BONEY: And were these mailed to the general public prior to the time they were presented to all members of the School Board?

MR. WALTON: May I first ask counsel to ask the witness if he knows when they were presented to the School Board. So that he can then answer the question.

MR. BONEY: Do you know when these were mailed?

MR. BLUE: Very probably it would be the date of the letter or the day following that they were put in the mail.

MR. BONEY: And do you know when they were presented to the School Board?

MR. BLUE: No.

MR. BONEY: You don't have any idea?

MR. WALTON: Objection.

MR. BONEY: I will withdraw the question. Mr. Blue, you played a part in circulating a petition, such as this, calling for the recall of the Seward School Board, did you not, sir?

MR. BLUE: Will you ask the question again, please?

MR. BONEY: Did you assist in circulating a document for the recall of the Seward School Board in 1959?

MR. BLUE: Yes.

MR. BONEY: And you actually circulated petitions yourself?

MR. BLUE: One petition.

MR. BONEY: And would Board's Exhibit 1, would you examine that and tell me whether or not that looks like your signature on that document?

MR. BLUE: It has a vague resemblance to it. Yes, sir.

MR. BONEY: But you did circulate such a petition?

[48] MR. BLUE: Yes.

MR. BONEY: And you circulated it among the general public? Of the City of Seward.

MR. BLUE: That is correct.

MR. BONEY: And you also made a speech before the Longshoremen's Local, before members of the Longshoremen's Local here in Seward? Concerning this matter, did you not?

MR. BLUE: I don't remember the subject matter of the speech to which you allude, but it's perfectly possible.

MR. BONEY: Now, you are charged here, Mr. Blue, with making a statement before the Longshoremen's Local, in tenor that we haven't been able to get rid of the Superintendent and so we are going to get rid of the Board.

MR. BLUE: Will you explain the word tenor?

MR. BONEY: In substance. Did you make a statement similar to that statement?

MR. WALTON: We object. I think it's important just what the man said. Not regarding what he said in a similar statement.

MR. BONEY: I'll withdraw the question. Do you know what you said?

MR. BLUE: No, I don't.

MR. BONEY: Do you remember the substance of what you said at that meeting?

MR. BLUE: In a very general way. Not specifically.

MR. BONEY: Did you generally state that we have been

unable to get rid of the Superintendent so we are going to get rid of the Board?

MR. BLUE: I don't know. I don't think so.

MR. BONEY: Did you state anything about getting rid of the Board?

MR. BLUE: I probably said something about submitting the Board to recall action, but getting rid of the Board would be the province of the public.

MR. BONEY: Were you a teacher in the public schools at that time?

MR. BLUE: Yes.

MR. BONEY: No further questions.

MR. WALTON: Is the Board now prepared to rest?

[49] MR. BONEY: The Board will rest.

MR. LEITENBURG: Without repeating in its entirety I renew our motion for the same reasons and on the same grounds. The same motion we made the first time the Board rested.

May we have a few minutes to ourselves in regard to the action? It may save more time than we take.

MR. CASEY: We'll have a 10 minute recess.

MR. WALTON: We will call Mr. Watts, to the witness stand.

Your full name, sir, is?

MR. WATTS: James A. Watts.

MR. WALTON: Do you recall hearing this evening testimony by Mr. and Mrs. Frampton pertaining to a conversation held with them and you in May or June 1959?

MR. WATTS: I do.

MR. WALTON: Was such a conversation held?

MR. WATTS: Yes.

MR. WALTON: Where?

MR. WATTS: In Mrs. Frampton's primary room in the grade school building.

MR. WALTON: Do you remember when?

MR. WATTS: That would be the latter part of April, to the best of my knowledge.

MR. WALTON: And who was present?

MR. WATTS: Mr. Frampton and Mrs. Frampton and myself.

MR. WALTON: And how did this conversation happen to take place?

MR. WATTS: I ask Mr. and Mrs. Frampton to speak to them a few minutes in the morning before school.

MR. WALTON: And then what happened?

MR. WATTS: I took them in and I asked their support in a meeting that was to be held that night at 4 o'clock in the same building, where the issue before them would be a question of whether the Seward District Teachers Association, N.E.A. affiliate, would continue their efforts to try to obtain contracts of three non-retained teachers.

MR. WALTON: Who were those teachers?

MR. WATTS: Mrs. Armstrong, Mrs. Svedlund and Mrs. Hollenbeck.

[50] MR. WALTON: In the course of this conversation, did you say anything to either of these people, Mr. and Mrs. Frampton, about the Superintendent? Specifically, did you ask either of them to assist you or anyone else in "getting rid of" the "superintendent"?

MR. WATTS: I did not.

MR. WALTON: Did you say anything similar to that?

MR. WATTS: No.

MR. WALTON: Why did you ask them for their support?

MR. WATTS: For the reason we knew there would be a serious election that night and we needed the support of all of the teachers who were members of the association.

MR. WALTON: And why did you feel you need their support?

MR. WATTS: Because the two committess of the Teachers Association had, first they had written a letter and gone to the School Board and gotten no satisfaction, they had this committee which was the grievance committee, took the problem, the rejection back to the Executive Council of the Teachers Association for their consideration, and at that time they voted unanimously to continue the ap-

peal to the School Board. In the meantime we had gotten information and support from the National Headquarters from the National Education Association to continue this case. In the meantime we asked the contracts for a certain time, and we got no answer.

MR. WALTON: You asked who?

MR. WATTS: The School Board and the Superintendent.

MR. WALTON: And who asked on behalf of the Association?

MR. WATTS: These two committees - I was on both committees - the grievance committee and public relations committee, and later the Executive Council of the Teachers Association. The first time we were rejected flatly. The second time we received no answer.

MR. WALTON: By whom were you rejected?

MR. WATTS: By the School Board and by the Superintendent.

MR. WALTON: And who failed to give you an answer? Whom were you referring to?

MR. WATTS: To the School Board, as the supreme authority.

[51] MR. WALTON: And who, on behalf of that group, made the request and the appeal to the School Board?

MR. WATTS: Would you state that a little more clearly.

MR. WALTON: Specifically, what person on behalf of that group approached the School Board.

MR. WATTS: Do you want the names? Or the Committee?

MR. WALTON: Were you one of them?

MR. WATTS: I was on both committees.

MR. WALTON: Did you personally appear before the School Board on those two occasions?

MR. WATTS: I did on the first occasion. The second time it was a letter.

MR. WALTON: What was Mr. Frampton's response to your request for assistance?

MR. WATTS: He gave no response, but his wife answered first.

MR. WALTON: What did Mrs. Frampton say?

MR. WATTS: She said we are strongly in support of the School Board and the Administration's policies and methods.

MR. WALTON: Did Mr. Frampton say anything?

MR. WATTS: He said "And we agree on that entirely".

MR. WALTON: And then what happened?

MR. WATTS: I stated that I was sorry that they felt that way. I have previously stated by previous testimony they knew that I had been with the school a long time and knew them fairly well. I said I was sorry that there was a disagreement here, we needed their support because the situation was serious, and we hoped that no-one - that there would be no hard feelings, or that none of us would get hurt. But we had to do what we thought best.

MR. WALTON: And then what happened?

MR. WATTS: That was the end of the meeting.

* * *

[53] MR. LEITENBURG: Prior to receiving the Notice of Non-Retention and the Bill of Particulars, did you receive any notice, either oral or written, from your Superintendent, Mr. Fabricious, or from the Board of Education, warning you in any way or manner that your conduct or alleged conduct would subject you to non-retention?

[54] MR. WATTS: How recently, may I ask?

MR. LEITENBURG: Well, did you ever receive such a warning? After May 18, 1959?

MR. WATTS: I would say yes.

MR. LEITENBRUG: When?

MR. WATTS: May 28th.

MR. LEITENBURG: What happened then?

MR. WATTS: I appeared before the School Board for a hearing.

MR. LEITENBURG: And what happened then? I withdraw that. Were you given some warning at that time?

MR. WATTS: Yes.

MR. LEITENBURG: Who issued the warning?

MR. WATTS: The last paragraph of a letter from the attorney for the School Board stating the conditions under which they could possibly non-retain me at an early date just as soon as school started because they had witnessed that I had asked certain teachers, administrators to help in support and effort to get rid of the Superintendent.

MR. LEITENBURG: Did you subsequently after that date receive any such warning?

MR. WATTS: Never.

MR. LEITENBURG: Did you have any conversation after that with Mr. and Mrs. Frampton?

MR. WATTS: What date do you mean?

MR. LEITENBURG: That date you just talked about. May 28th.

MR. WATTS: Yes. May 28th, no.

MR. LEITENBURG: No. That's all.

* * *